

U.S. Policy Towards Burma: Issues for the 112th Congress

August 8, 2011

Congressional Research Service

<https://crsreports.congress.gov>

R41971

Summary

A robust discussion has arisen around U.S. policy towards Burma. Some Members of Congress, senior officials in the Obama Administration, noted Burma scholars, and representatives of various interest groups have weighed in on this discussion, offering their views on the merits of current U.S. policy towards Burma and what policy changes ought to be made.

Among the commentators, there is general agreement that more than 20 years of political and economic sanctions, and nearly two years of “pragmatic engagement,” have not led to the achievement of the stated goals of U.S. policy towards Burma—the release of all political prisoners from detention and the transfer power to a representative, democratically elected civilian government that will respect the human rights of the people of Burma, including its ethnic minorities. However, there is little agreement as to why U.S. policy has been unsuccessful and what needs to be done to increase the likelihood of achieving the stated goals.

Some analysts see the holding of parliamentary elections, the release of opposition leader Aung San Suu Kyi from house arrest in November 2010, the formal dissolution of Burma’s military regime, and its replacement by a mostly civilian government as evidence of the advent of a new era in Burma. Others view these events as thinly veiled ruses designed to hide the continuation of repressive military rule behind the veneer of seemingly civilian institutions. Both groups of commentators point to various recent events to support for their recommendations for the conduct of U.S. policy towards Burma.

Other factors complicate the formulation of U.S. policy towards Burma. The Association of Southeast Asian Nations, of which Burma is a member, has called for the end of all sanctions on Burma. The European Union recently lifted its visa ban for several senior officials in the new Burmese government. Neighboring China, India, and Thailand have recently increased their investments in Burma, particularly in its energy sector. Inside Burma, the outbreak of fighting between the Burmese military and several ethnic-based militias has reportedly led to serious human rights abuses and another wave of Burmese refugees in the region.

The current discussions have generally focused on three related issues: (1) the effectiveness of the U.S. sanctions regime; (2) the value of high-level meetings with Burmese officials; and (3) the ability to coordinate policies towards Burma with other nations. To some, the basic premise of U.S. policy is fundamentally flawed, and a completely new approach is needed. To others, the main problem with U.S. policy has been in its lack of focus and inadequate implementation. Some question whether or not any U.S. policy can have an appreciable impact on Burma’s military leaders and foster progress towards U.S. objectives in Burma.

The installation of a new government in Burma and the appointment of Derek J. Mitchell to serve as the first Special Representative and Policy Coordinator for Burma are viewed as creating a “honeymoon period” in which Congress and the Obama Administration can review and, if desired, adjust U.S. policy towards Burma. The genesis of U.S. policy towards Burma was largely driven by Congress passing legislation after particularly egregious actions by Burma’s ruling military junta. The 112th Congress is currently considering legislation (H.J.Res. 66 and S.J.Res. 17) that would renew certain import restrictions contained in the Burmese Freedom and Democracy Act of 2003. If the history of the development of U.S. policy towards Burma is indicative, any dramatic new development in Burma—either good or bad—could prompt Congress into action.

Contents

Introduction	1
Why Burma?.....	2
Current U.S. Policy	3
Conduct of Policy.....	4
The U.S. Sanctions Regime	6
U.S. Aid to Burma.....	8
Perceived Problems with U.S. Policy.....	9
Major Developments in Burma in 2010	10
The 2010 Elections.....	10
The Release of Aung San Suu Kyi.....	12
Burma in 2011	13
The New Parliaments	13
The New Union Government	15
President Thein Sein	15
The Vice Presidents.....	16
The Ministers	16
The National Defence and Security Council and the State Supreme Council	17
Changes in the Burmese Military.....	18
The Human Rights Situation	19
Human Rights Under the SPDC.....	20
Human Rights Under the New Government	22
Political Prisoners.....	24
Burma's Militias and Refugee Problem	25
The Ethnic-Based Militias.....	25
Burma's Refugees	27
The Economy	29
Burma's Relations with North Korea	32
Implications for U.S. Policy	35
The Sanctions Debate.....	35
The Effectiveness of Sanctions.....	35
The International Context	37
Enforcement of Sanctions	41
The Engagement Debate	43
The Role of Congress	44
Maintenance and Enforcement of Existing Policy	44
Modifying U.S. Policy	44

Figures

Figure 1. Burmese Refugee Camps	28
---------------------------------------	----

Tables

Table 1. U.S. Assistance to Burma by Fund, FY2006-FY2011	8
Table 2. Mass Prison Reprieves.....	25
Table 3. GDP Growth Rates	30
Table B-1. Reports Requires under U.S. Burma Sanction Laws	48
Table D-1. Burma’s Ministers and Their Portfolios	51

Appendixes

Appendix A. Map of Burma	47
Appendix B. Reports Required Under U.S. Burma Sanctions Laws.....	48
Appendix C. Parliamentary Election Results by Political Party	50
Appendix D. Burma’s Ministers and Their Portfolios.....	51
Appendix E. Burma’s Ethnic-Based Militias	53

Contacts

Author Information.....	54
-------------------------	----

Introduction

Current U.S. policy towards Burma (Myanmar)¹ can be characterized as the balancing of bilateral engagement and an assortment of political and economic sanctions—an approach sometimes referred to as “pragmatic engagement.” In addition, the Obama Administration is attempting to convince other nations to adopt a similar policy towards Burma. The stated intent of U.S. policy is to persuade and/or pressure Burma’s military junta, the State Peace and Development Council (SPDC), to release all political prisoners from detention and transfer power to a representative, democratically elected civilian government that will respect the human rights of the people of Burma, including its ethnic minorities.

Recent political developments in Burma may be harbingers of change with implications for U.S. policy. The SPDC held national parliamentary elections on November 7, 2010, after a relatively short and controversial campaign period in which opposition parties claimed they faced harassment, intimidations, and limited access to the media.² On the day of the election, media outside of Burma reported allegations of vote-rigging and election fraud, including the last-minute appearance of large numbers of “advance votes.” Six days after the election, Aung San Suu Kyi,³ the preeminent leader of Burma’s democracy movement, was released from house arrest. Despite the controversies surrounding the campaign and the election, the official election results released on December 7, 2010, announced that the SPDC-backed Union Solidarity and Development Party (USDP) had won over three-quarters of the parliamentary seats.

The new bicameral parliament convened for the first time on January 31, 2011, in the new capital city of Nay Pyi Taw.⁴ Its main tasks were the selection of a new President and two Vice Presidents, and the confirmation of the new government ministers. Most of the new government appointments went to former SPDC members or military officers. On March 30, 2011, Senior General Than Shwe formally dissolved the SPDC and former General, Prime Minister, and SPDC First Secretary Thein Sein became Burma’s new president.

The initial responses of the 112th Congress and the Obama Administration to the political developments in Burma have been generally critical. In a press release issued the day of Burma’s parliamentary election, Secretary of State Hillary Clinton stated that the United States was “deeply disappointed” by the elections, noting that “[t]he electoral process was severely flawed, precluded an inclusive, level playing field, and repressed fundamental freedoms. As a result, the elections were neither free nor fair.”⁵ On November 18, 2010, the House of Representatives passed H.Res. 1677, denouncing “the one-sided, undemocratic, and illegitimate actions of the State Peace and Development Council (SPDC) that seek to legitimize military rule through a flawed election process.”

¹ In 1989, the ruling military junta changed the country’s official name from Burma to Myanmar. The United States—along with several other nations—officially continue to refer to the nation as Burma. The United Nations and most Asian nations have adopted the name Myanmar.

² For more about the controversial election campaign in Burma, see CRS Report R41447, *Burma's 2010 Election Campaign: Issues for Congress*, by Michael F. Martin.

³ Burmese names do not have formal surnames and frequently include honorifics. For example, Aung San Suu Kyi will sometimes be referred to as “Daw Aung San Suu Kyi.” In this case “Daw” is an honorific, used with older women. This report will *not* use honorifics and will refer to Burmese people using their full name.

⁴ Burma’s 2008 constitution designates the city of Nay Pyi Taw, also known as Naypyidaw, as the capital. However, the State Department continues to recognize Rangoon, also known as Yangon, as the capital.

⁵ Office of the Secretary of State, “Burma’s Elections,” press release, November 7, 2010.

The international response to the political developments in Burma has been mixed. Australia, Canada, and the European Union were also critical of the conduct of the November election, and have kept their own sanctions on Burma largely intact. The Association of Southeast Asian Nations (ASEAN) and China, by contrast, welcomed the election results and the installment of a new government, and subsequently called for the removal of all sanctions on Burma.

The convening of Burma's new parliament and the official transfer of power to President Sein and his ministers has precipitated a debate over the effectiveness of the current U.S. policy and possible strategies to foster political change in Burma. One of the pivotal issues in this debate is the degree to which recent political events represent either a shift of power from the military to a largely civilian government, or an elaborate ruse by which the SPDC remains in control of the country. A second major issue is whether or not U.S. policy can significantly impact political developments in Burma, and if so, what should be the main components of that policy. A third issue is which of the various U.S. goals should be given priority in the short run, and which goals are better viewed as long-run objectives.

For the last 20 years, Congress has played a major role in formulating U.S. policy towards Burma, particularly in the imposition of sanctions. The 112th Congress may decide to take legislative action with respect to U.S. policy towards Burma, as past Congresses did. The 110th Congress, responding to the violent suppression of a popular protest in Burma in 2007, tightened sanctions on Burma by passing the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (2008 JADE Act) (P.L. 110-286). The 108th Congress passed the Burmese Freedom and Democracy Act of 2003 (P.L. 108-61) following a crackdown on opposition parties, which included the arrest and detention of Aung San Suu Kyi. The 101st, 103rd, and 104th Congresses passed similar sanction-tightening measures, generally after anti-democratic and/or repressive actions by the SPDC.

Why Burma?

A number of scholars have questioned why the United States has had such a sustained interest in Burma.⁶ As described in another CRS report, U.S. relations with Burma remained comparatively normal following the military coup in 1962; punitive sanctions were first imposed following the brutal suppression of a peaceful and popular protest movement in 1988.⁷ Over the next 20 years, the United States gradually adopted more sanctions and increased the pressure on Burma's ruling military in an effort to end the repression and promote democracy.

There is little question about the military junta's legacy of human rights violations and its violent suppression of the people of Burma. However, Burma is not the only nation in Asia where the government has been accused of serious human rights violations. Yet, as one noted Burma scholar recently pointed out, current U.S. sanctions on Burma are in some ways stricter than those imposed on the People's Democratic Republic of Korea (North Korea).⁸

Burma also appears to be of little geopolitical or global economic importance for the United States. Its location between China and India may make Burma important to those two contending regional powers, but the United States has no apparent strategic interest in Burma. Burma's

⁶ Among the more noted commentators on U.S. policy in Burma are: Aung Din, Priscilla Clapp, Suzanne DiMaggio, Michael Green, Fred Hiatt, Bertil Lintner, David I. Steinberg, Derek Tonkin, Sean Turnell, and Maung Zarni.

⁷ For details of the genesis of U.S. policy towards Burma see CRS Report R41336, *U.S. Sanctions on Burma*, by Michael F. Martin.

⁸ David I. Steinberg, "Disparate Sanctions: US Sanctions, North Korea and Burma," *East Asia Forum*, June 23, 2011.

known natural gas and oil fields are attractive to energy companies around the world, but are neither sufficient or necessary for the United States to meet its foreseeable energy demand.

Despite Burma's apparent lack of importance and uniqueness, the United States for over two decades has diligently pursued a policy designed to end military repression and promote democracy—with arguably little to show for the effort. As a result, a broad and wide-ranging discussion on U.S. policy towards Burma has emerged, with possible implications for U.S. policies towards other nations. Some observers have argued that the U.S. policy towards Burma has proven that sanctions never work and that sanctions on Burma—and by extension, any other nation—should be lifted. Other analysts maintain that the SPDC's behavior over the last 20 years demonstrates that Burma's military leaders are not open to reason and that engagement in any form is destined to fail. Some commentators also decry U.S. efforts to coordinate policies with other countries toward Burma, noting that other nations have other priorities and readily realize the limits on how far the United States is willing to press its case regarding Burma.

Some commentators see less grandiose lessons in the history of U.S. policy towards Burma, suggesting the problems lie in the conduct of the policy and not that the policy is fundamentally flawed. To these observers, the problems with U.S. sanctions on Burma are that the sanctions are not strict enough, not properly targeted, and/or not adequately enforced. Similarly, these observers argue the lack of results from direct dialogue stems from insufficient time, unclear intent, and/or inappropriate priorities in the talks. Past efforts to coordinate Burma policies with other nations have fallen short of their desired goals, according to some analysts, because the United States was not flexible enough to allow other nations to adopt a different approach to achieve the same overall objectives.

A final group of writers on U.S. policy focus more on analyzing how events of the past few years—particularly the establishment of a new parliament and the installation of a new president—may have changed the political dynamic inside Burma, and the implications for U.S. policy. To some, the changes inside Burma are purely cosmetic, with the military still firmly in control. According to these analysts, the United States should not reward the SPDC for its charade, and in the opinion of some, should increase the pressure on Burma's military leadership. To others, the changes inside Burma are flawed, but real, and with the proper support and encouragement, could gradually lead to an end of flagrant violations of human rights and the eventual restoration of democracy. These commentators suggest that the United States consider selectively removing sanctions and increasing channels of bilateral interaction in order to bolster the elements of change inside Burma that will promote democracy.

To help understand the interplay of these distinct, but interrelated policy discussions, this report reviews current U.S. policy towards Burma, as well as recent developments in the country. The report then examines the implications for future U.S. policy and considers what actions, if any, the 112th Congress may take with respect to U.S. policy towards Burma.

Current U.S. Policy

In September 2009, the Obama Administration announced a change in U.S. policy towards Burma after seven months of review, discussion, and consultation.⁹ The existing sanctions regime remained in place, but new elements of U.S. policy were added—the willingness to engage in direct dialogue with the SPDC on how to promote democracy and human rights in Burma, and to

⁹ U.S. Department of State, “U.S. Policy Toward Burma,” press release, September 28, 2010.

cooperate to a greater extent with the SPDC on international security issues, such as nuclear nonproliferation and counternarcotics efforts.

Outside of the new willingness to engage in direct dialogue, the Obama policy has continued the policies of the two preceding administrations with the same goals—namely, to support “a unified, peaceful, prosperous, and democratic Burma that respects the human rights of its citizens.”¹⁰ In order to achieve these goals, the Obama Administration pressed Burma’s military leaders to release all its political prisoners, end all its conflicts with ethnic minorities, cease its human rights violations, and initiate “a credible internal political dialogue with the democratic opposition and ethnic minority leaders on elements of reconciliation and reform.”¹¹

Conduct of Policy

At present, the Obama Administration and Congress appear to generally agree on the goals of U.S. policy in Burma. Disagreement tends to arise over the setting of priorities among the stated goals and devising the proper strategy to increase the odds of achieving those goals. Given the events of the past nine months in Burma, one of the more pressing questions is determining what positive changes are more likely to occur in the short run, and which are probably better viewed as longer term objectives. In addition, other questions concern the proper balance between the various instruments of U.S. policy—sanctions, direct talks, coordination with other nations, etc.—and what to realistically respect from the use of each of those instruments.

Several key Executive Branch officials are responsible for the development and implementation of U.S. policy towards Burma. The relevant U.S. laws explicitly designate the President, the Secretary of State, the Secretary of the Treasury, and U.S. Trade Representative as having the responsibility and authority to carry out the various components of the U.S. sanctions regime against Burma. Using granted presidential powers, past Presidents have delegated their sanction-related authority to the Secretary of Homeland Security, the Secretary of State, the Secretary of the Treasury, and the U.S. Trade Representative—and in some cases, have allowed the stipulated official to “redelegate” authority to other U.S. government officials or agencies.¹² Among the current government officials who play an active role in the implementation of U.S. policy towards Burma are: Assistant Secretary of State for East Asian and Pacific Affairs Kurt Campbell, Deputy Assistant Secretary of State for East Asian and the Pacific Affairs Joseph Yun, and former Deputy Assistant Secretary of State for East Asian and the Pacific Affairs and current Ambassador to Indonesia Scot Marciel.

Future U.S. policy towards Burma is to be coordinated by Derek Mitchell who was confirmed by the Senate on August 2, 2011 as Special Representative and Policy Coordinator for Burma. Mitchell was nominated for the position on April 15, 2011. The position, which holds an ambassadorial ranking, was created by the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008 (JADE Act) (P.L. 110-286). According to the JADE Act, the Special Representative is responsible for coordinating U.S. policy towards Burma, consulting with foreign governments on relations with Burma, and consulting with Congress on U.S. policy

¹⁰ Ibid.

¹¹ Ibid.

¹² This has been done via several Presidential Executive Orders, as well as Presidential Proclamation 8294 (“To Implement Amendments to the Burmese Freedom and Democracy Act of 2003,” *Federal Register*, Vol. 73, No. 191, October 1, 2008, pp. 57223-57227) and Presidential Determination No. 2009-11 (“Limited Waiver of Certain Sanctions Imposed by, and Delegation of Certain Authorities Pursuant to, the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008,” *Federal Register*, Vol. 74, No. 12, January 21, 2009, pp. 3957-3958).

towards Burma. Mitchell co-authored an article published in *Foreign Affairs* in 2007 that advocated a new U.S. policy towards Burma very similar to the approach adopted by the Obama Administration in 2009.¹³

According to the Obama Administration, the existing U.S. sanctions on Burma will remain in place “until we see concrete progress towards reform.”¹⁴ The Obama Administration has reserved the right to implement or recommend additional, targeted sanctions if warranted by circumstances inside Burma. Alternatively, the Obama Administration may relax sanctions or call for the removal of sanctions if the political situation in Burma meets the specified criteria set in existing U.S. law.

In addition to relaxing sanctions, the Obama Administration could alter other aspects of U.S. policy that are known to irritate the SPDC and Burma’s military. For example, the SPDC routinely complains about the continued use of the name, “Burma,” by the U.S. government, despite the SPDC’s officially changing the country’s name to Myanmar in 1989. Another known source of irritation for the SPDC is the restriction on travel within the United States placed on official diplomatic representatives from Burma.¹⁵

Since its announcement of a new Burma policy, the Obama Administration has held several direct discussions with SPDC officials, including at the first ASEAN-U.S. leaders meeting in Singapore on November 15, 2009, which both President Obama and Burma’s Prime Minister General Thein Sein attended.¹⁶ A few days prior to the ASEAN-U.S. leaders meeting, Assistant Secretary Campbell and Deputy Assistant Secretary Marciel traveled to Burma to meet with Prime Minister Thein Sein—the highest level U.S. delegation to visit Burma in 14 years.¹⁷ Campbell and Marciel also met with Aung San Suu Kyi and leaders of other opposition parties and ethnic minorities. Assistant Secretary of State Campbell also visited Burma from May 9-10, 2010, and had meetings with SPDC officials, NLD leaders (including Aung San Suu Kyi), and leaders from various ethnic minority groups. In December 2010, Deputy Assistant Secretary Yun traveled to Burma where he met with SPDC officials, Aung San Suu Kyi and other NLD leaders, and representatives of various ethnic minority groups.

Deputy Assistant Secretary Yun traveled again to Burma from May 18-20, 2011—becoming the first U.S. official to visit the country following the installation of the new government. During his visit, Yun met with Deputy Speaker of Burma’s Lower House Nanda Kyaw Swar, Foreign Minister Wunna Maung Lwin, Aung San Suu Kyi, and other opposition leaders. According to a press release from the U.S. embassy in Burma, in his meetings with the Deputy Speaker and Foreign Minister, Yun reiterated that progress in bilateral relations “would depend on the Burmese government taking meaningful, concrete steps towards democratic governance, respect for human rights, and the release of all political prisoners....”¹⁸ Two days before Yun’s arrival, Burma’s President Thein Sein announced a partial amnesty for selected prisoners in Burma (see “The Release of Aung San Suu Kyi ” below). It would appear that the Obama Administration has

¹³ Michael Green and Derek Mitchell, “Asia’s Forgotten Crisis: A New Approach to Burma,” *Foreign Affairs*, vol. 86, no. 1 (January/February 2007), pp. 147-158.

¹⁴ U.S. Department of State, “U.S. Policy Toward Burma,” press release, September 28, 2010.

¹⁵ The United States places limits on the travel of Burmese diplomats in the United States. For example, members of Burma’s delegation to the United Nations are not allowed to travel beyond 20 miles from the United Nations without prior written approval. U.S. diplomats in Burma face similar restrictions on their travel in Burma.

¹⁶ While the two leaders attended the meeting, they did not have a separate bilateral meeting.

¹⁷ Tim Johnston, “Scant Details on Reaction to U.S. Envoys’ Burma Visit,” *Washington Post*, November 6, 2009.

¹⁸ U.S. Embassy—Rangoon, “U.S. Department of State Deputy Assistant Secretary for East Asian and Pacific Affairs Travel to Burma,” press release, May 20, 2011.

determined that the amnesty announcement was not sufficient to warrant the relaxation of sanctions or other possible changes in relations.

The purposes of the bilateral talks have not always been clear. The initial meetings with Burmese officials and various opposition groups seemed to focus on establishing relations and fostering a willingness to engage in dialogue. More recent meetings appear to have involved more substantive discussions of the current situation in Burma and future paths to progress. The talks have not indicated that the SPDC and the Tatmadaw are willing to consider direct talks involving representatives of the various opposition groups – which the United States and others consider a necessary condition for national reconciliation. The perceived lack of progress on political reform and national reconciliation may have shifted the U.S. focus for the bilateral talks onto the release of political prisoners and the improvement of human rights situation. However, there are few signs of improvement on either of those issues.

The Obama Administration has continued the past practice of consulting with the international community to foster the desired changes inside Burma, including an intensified effort to engage with ASEAN, China, and India. Prior to the ASEAN Regional Forum (ARF) in Hanoi in July 2010, Secretary of State Hillary Clinton expressed U.S. support for ASEAN's call for free and fair elections in Burma. The United States has also raised the political situation in Burma with China at various fora. During his November 2010 trip to India, President Obama called on the Indian parliament to speak up for democracy and human rights in Burma.¹⁹

As with the bilateral talks with Burma, the intent of the Obama Administration's effort to consult with the international community on Burma policy has not been readily apparent to observers. It seems unlikely – and unrealistic – for the Obama Administration to expect other nations to adopt a similar policy of “pragmatic engagement” involving a combination of sanctions and direct dialogue with Burmese officials and leaders given the recent statements by several of the key nations. One plausible objective may be agreeing on what changes should occur in Burma, and what role each nation and the United Nations may play in fostering those changes.

The U.S. Sanctions Regime²⁰

U.S. sanctions targeted solely at Burma are specified in five federal laws, a series of Presidential Executive Orders, and certain Presidential Determinations. The five laws are:

- **Section 138 of the Customs and Trade Act of 1990** (Section 138)(P.L. 101-382)—requires the President to impose “such economic sanctions upon Burma as the President determines to be appropriate,” unless the President certifies certain conditions pertaining to human rights and counternarcotics have been met;
- **Section 307 of the Foreign Assistance Act of 1961** (Section 307)(P.L. 87-195), as amended by the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236)—withholds U.S. contributions to selected international organizations with programs in Burma;
- **Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997** (Section 570)(P.L. 104-208)²¹—imposes

¹⁹ The full text of the President's speech is available online at <http://www.whitehouse.gov/the-press-office/2010/11/08/remarks-president-joint-session-indian-parliament-new-delhi-india>.

²⁰ For more detailed information about U.S. sanctions on Burma, see CRS Report R41336, *U.S. Sanctions on Burma*, by Michael F. Martin

²¹ The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 was merged into Title 1

various specific sanctions on Burma, unless the President certifies that certain human rights and democracy standards have been met;

- **The Burmese Freedom and Democracy Act of 2003 (BFDA)** (P.L. 108-61)—requires the President to impose a ban on the import of products of Burma;²² freeze assets of certain Burmese officials; block U.S. support for loans to Burma from international financial institutions; and ban visas for certain Burmese officials; and
- **The Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (JADE Act)** (P.L. 110-286)—bans the direct and indirect import of products containing Burmese jadeite and rubies; expands the list of Burmese officials subjected to visa bans and financial sanctions; and allows the placement of restrictions on use of correspondent accounts to provide services to Burmese officials.

The BFDA and JADE Act also require the President, the State Department and the Treasury Department to provide selected congressional committees with reports on the implementation of their sanctions provisions (see **Appendix B**).

Four Presidential Executive Orders (E.O.) currently in force impose sanctions on Burma. The four E.O.s are:

- **E.O. 13047**—Issued on May 20, 1997, by President Bill Clinton, it bans all new investments in Burma, as required by Section 570;
- **E.O. 13310**—Issued on July 28, 2003, by President George W. Bush, it brings the sanction regime into compliance with certain provisions of the BFDA, including the freezing of assets of certain Burmese officials and the prohibition of the provision of financial services to Burma;
- **E.O. 13448**—Issued on October 18, 2007, by President Bush, it added to the list of Burmese officials and entities subject to the freezing of assets; and
- **E.O. 13464**—Issued on April 30, 2008, by President Bush, it added to the list of Burmese officials and entities subject to the freezing of assets.

President Bush also issued Presidential Determination No. 2009-11 on January 15, 2009, providing a limited waiver of some of the sanctions in the JADE Act stating that doing so was “in the national interest of the United States.”²³

The existing U.S. sanctions specifically targeted at Burma can be generally divided into several broad categories. First, there are bans on issuing visas to certain Burmese government officials (particularly the former and present leadership of the State Peace and Development Council [SDPC] and the Union Solidarity Development Association [USDA]), members of their families, and their business associates. Second, there are restrictions on the provision of financial services to certain Burmese government officials, members of their families, and their business associates. Third, certain assets of selected Burmese individuals held by U.S. entities have been “frozen.”

of the Omnibus Consolidated Appropriations Act, 1997.

²² The general import ban is subject to renewal. The 112th Congress is considering H.J.Res. 66 and S.J.Res. 17 which would renew the import ban for another year.

²³ Executive Determination 2009-11, “Limited Waiver of Certain Sanctions Imposed by, and Delegation of Certain Authorities Pursuant to, the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008,” 74 *Federal Register* 3957-3958, January 21, 2009.

Fourth, there is a general prohibition on the import of goods of Burmese origin. Fifth, there is a prohibition on the import of certain types of goods and goods from certain companies. Sixth, there is a ban on new U.S. investments in Burma, including investments in third country companies.²⁴ Seventh, there are restrictions on the provision of bilateral and multilateral assistance to Burma.

The enforcement of the sanctions is handled by multiple government agencies. The visa ban and related provisions are administered by the State Department, as well as U.S. Customs and Border Protection. The restrictions on the provision of financial services and the “freezing” of the assets of certain Burmese officials is the responsibility of the U.S. Treasury and its Office of Foreign Assets Control (OFAC). The restrictions on the importation of certain Burmese products is managed by U.S. Customs and Border Protection of the Department of Homeland Security. Enforcing restrictions on provision of bilateral or multilateral assistance is the responsibility of the designated U.S. representative to the applicable agency or international body.

U.S. Aid to Burma

The existing sanctions laws contain provisions that do allow U.S. aid to Burma for humanitarian assistance and in cases of natural disasters. Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (P.L. 104-208)²⁵ prohibits bilateral assistance to Burma except for humanitarian assistance; assistance promoting human rights and democratic values; and counter-narcotics assistance (under specific conditions). The law does provide for a presidential waiver—either temporary or permanent—if the President “determines and certifies to Congress that the application of such sanction would be contrary to the national interest of the United States.” No such waiver is currently in effect.

Table 1. U.S. Assistance to Burma by Fund, FY2006-FY2011

(US\$ millions)

Fiscal Year	Total	Development Assistance	Economic Support Fund	Global Health and Child Survival-USAID	P.L. 480 ^a
2006	10.890		10.890		
2007	12.990		10.890	2.100	
2008	43.758	0.717	12.895	2.083	28.063
2009	35.400		33.300	2.100	
2010	38.600		36.500	2.100	
2011 ^b	38.527		36.427	2.100	

Source: U.S. Department of State, Congressional Budget Justifications for Foreign Operations, multiple years.

a. P.L. 480 Title II Food Assistance Program.

b. Figures provided to CRS by State Department.

²⁴ Investments made prior to May 21, 1997—such as Unocal’s investment in the Yadana gas project—are not affected by the new investment ban.

²⁵ The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, was merged into Title 1 of the Omnibus Consolidated Appropriations Act, 1997.

Following the devastation caused by Cyclone Nargis in 2008, the United States provided over \$85 million in assistance to help victims in Burma.²⁶ The United States provided an additional \$1.5 million in assistance after Cyclone Giri struck Burma in October 2010. When providing this assistance, the U.S. Agency for International Development (USAID) took measures to ensure that aid money went directly to either U.N. agencies or international non-governmental organizations (NGOs) and that none of the funds were paid to Burmese government officials or other sanctioned entities.²⁷ Besides support following natural disasters, U.S. aid to Burma has generally been distributed in neighboring countries, with Thailand receiving much of the assistance to support Burmese refugees in camps along the border (see “Burma’s Refugees”).

Much of U.S. assistance for Burma is administered through the U.S. Agency for International Development (USAID). According to USAID’s webpage on Burma assistance, USAID “provides humanitarian assistance to people in Burma, internally displaced persons (IDPs), as well as migrants and refugees in 10 Thai provinces along the Thailand-Burma border.”²⁸ Some of the specific Burma programs supported by USAID include:

- programs to combat avian influenza (AI), HIV/AIDS, and other infectious diseases;
- education programs for Burmese IDPs, migrants, and refugees in Thailand;
- training and assistance to strengthen community-based organizations in refugee camps in Thailand; and
- support for Burmese organizations seeking to protect human rights, civil liberties, and press freedom in Burma and Thailand.

USAID typically allocates funds by providing grants to international and local NGOs. USAID has used its Burma funds to provide grants to a number of different organizations, including the American Refugee Committee, the National Endowment for Democracy, and the U.N. World Food Program. In October 2010, USAID posted a solicitation for a Personal Services Contractor (PSC) to serve as Burma Country Program Manager to be located in Burma, subject to visa approval. If this position is successfully filled, it will be the first U.S. aid worker stationed in Burma in many years.

Perceived Problems with U.S. Policy

The Obama Administration has readily admitted some frustration with the results of its Burma policy. When asked during the State Department’s daily press briefing on March 10, 2010, for signs of progress in Burma resulting from the new policy, Assistant Secretary Philip J. Crowley stated that “so far, those results are lacking.”²⁹ Following his May 2010 trip to Burma, Assistant Secretary Campbell stated that the Obama Administration was “profoundly disappointed by the response of the Burmese leadership.”³⁰ In his testimony to the House Foreign Affairs Committee

²⁶ Burma was struck by a category 3 cyclone on May 2, 2007, resulting in the deaths of approximately 130,000 people. For more information on the destruction caused by Cyclone Nargis and the international relief effort, see CRS Report RL34481, *Cyclone Nargis and Burma’s Constitutional Referendum*, by Michael F. Martin and Rhoda Margesson.

²⁷ This was confirmed by a recent Government Accountability Office report (U.S. Government Accountability Office, *Burma: UN and U.S. Agencies Assisted Cyclone Victims in Difficult Environment, but Improved U.S. Monitoring Needed*, GAO-11-700, July 2011).

²⁸ <http://www.usaid.gov/locations/asia/countries/burma/>.

²⁹ U.S. Department of State, “Daily Press Briefing,” press release, March 10, 2010.

³⁰ U.S. Embassy in Rangoon, Burma, “Assistant Secretary Campbell’s Remarks on Visit to Burma,” press release, May

on June 2, 2011, Deputy Assistant Secretary Yun stated “We are disappointed by the lack of any results from our repeated efforts at dialogue.”³¹

There appear to be several sources of frustration within the Obama Administration with respect to Burma. First, the SPDC has reportedly been relatively unresponsive in the high-level meetings, preferring to confine discussion to the exchange of formal statements that avoid or evade the issues raised by U.S. officials. Second, the current U.S. sanction regime may not be effectively targeted so as to be able to apply pressure for change. Third, other nations are seemingly reluctant or unwilling to discuss ways to coordinate Burma policies, thereby creating opportunities for the SPDC to circumvent efforts by the United States and other countries to apply political and economic pressure.

There are indications that the Obama Administration is examining a possible rebalancing of its Burma policy. In part, this rebalancing may reflect its disappointment with the apparent ineffectiveness of the current approach. The rebalancing may also be in response to the formation of a new government and its possible implications for the future of Burma. Finally, Special Representative Mitchell may wish to pursue a restructuring of the strategic approach of U.S. policy towards Burma.

Major Developments in Burma in 2010

The year 2010 proved to be an eventful year for Burma, with the country struck by another major cyclone³² and racked by periodic conflicts between the Burmese military, known as the Tatmadaw (“Royal Force”), and various insurgent groups in eastern Burma (see “The Ethnic-Based Militias” below). However, what may prove to be the most politically significant events for the year both took place in November—the national elections to select the nation’s first civilian parliament in 20 years, and the release of Aung San Suu Kyi. The elections, held on November 7, were portrayed by the SPDC as the completion of the fifth step in its seven-step process for the creation of a “disciplined democracy” in Burma.³³ However, to the United States and many other nations the elections were neither free nor fair, and denoted little progress in the return to civilian rule Burma. By contrast, the release of Aung San Suu Kyi was greeted by the international community as a possibly pivotal event that might lead to the resumption of talks between the SPDC and the various opposition groups in Burma about possible national reconciliation.

The 2010 Elections

Burma’s first parliamentary elections in 20 years were held on November 7, 2010. At stake were 168 seats in the Upper House (*Amyotha Hluttaw*, or National Assembly) and 325 seats in the Lower House (*Pyithu Hluttaw*, or People’s Assembly) of the Union Parliament (*Pyidaungsu Hluttaw*), as well as 661 seats in the 14 Regional and State Hluttaws.³⁴ Candidates from 37

10, 2010.

³¹ Department of State, “Block Burmese JADE Act and Recent Policy Developments,” press release, June 2, 2011.

³² Cyclone Giri, a category 4 cyclone, struck the coast of Burma on October 22, 2010, killing over 150 people and leaving tens of thousands of people homeless. The United States initially provided \$300,000 in emergency relief supplies. On January 11, 2011, the United States announced it would provide an addition \$1.5 million in food assistance.

³³ For more information on the SPDC’s seven-step roadmap to democracy, see CRS Report R41218, *Burma’s 2010 Elections: Implications of the New Constitution and Election Laws*, by Michael F. Martin.

³⁴ Elections were not held for five seats in the Lower House and for 12 seats in the Regional and State Hluttaws because of the ongoing military conflicts in those areas of Burma. No date has been announced for elections for those

different political parties ran in the election, including the SPDC-backed Union Solidarity and Development Party (USDP) and a splinter group from the NLD, the National Democratic Force (NDF). The NLD was prohibited from participating in the election after it refused to re-register as a political party.³⁵ Voting was held after a relatively short and controversial campaign period, in which opposition parties maintained they faced harassment, intimidation and limited access to the media.³⁶ Opposition leaders and international observers also complained about the SPDC-imposed election laws.³⁷

News accounts of the conduct of the election vary widely in their assessments. The SPDC-run media in Burma reported a high turnout and few voting irregularities. The opposition press in exile (such as *Irrawaddy* and *Mizzima*) and some international observers reported a light turnout and serious voting irregularities. Among the more serious claims of voting fraud were reports of ballot box stuffing and the delivery of large numbers of unexplained “advance votes” to many polling places. In some cases, the “advance votes” were delivered after preliminary results indicated that an opposition candidate had won the election.

In a press release issued the day of the parliamentary election, Secretary of State Hillary Clinton stated that the United States was “deeply disappointed” by the elections, noting that “[t]he electoral process was severely flawed, precluded an inclusive, level playing field, and repressed fundamental freedoms. As a result, the elections were neither free nor fair.”³⁸ Secretary Clinton also indicated that allegations of intentional Internet slowdowns, voter intimidation, and fraudulent “advance voting” schemes were “very troubling.”

On December 7, 2010, the Union Election Commission (UEC), which was responsible for conducting the parliamentary elections, announced the official results. According to the UEC, 77% of Burma’s eligible voters voted, with 93% of the votes cast deemed valid. The USDP won

The Controversial Creation of the USDP

The creation of the Union Solidarity and Development Party (USDP) was the source of some political controversies in Burma. The USDP officially applied for recognition as a political party on April 29, 2010, when then-Prime Minister Thein Sein and 26 other government officials submitted the necessary documents to the Union Election Commission (UEC). However, a provision in the Political Party Registration Law appears to prohibit civil services personnel from forming a political party. On June 8, 2010, the UEC recognized the USDP as a political party, ruling that the Prime Minister and other officials were not civil servants.

On July 16, 2010, the assets of the Union Solidarity and Development Association (USDA), a SPDC-run “grassroots organization” claiming over 24 million members, were transferred to the USDP, providing the new political party with both the money and a network of contacts to use in the upcoming campaign. The asset transfer became controversial because another provision in the Political Party Registration Law prohibits a party from obtaining or using directly or indirectly money, buildings, vehicles, or property owned by the State. Several opposition parties maintained that the USDA asset transfer violated this law, and the USDP should therefore either be barred from the election or required to relinquish the assets. The UEC decided otherwise, allowing the USDP to keep the USDA’s assets.

seats.

³⁵ The NLD decided against reregistering because certain provisions in the election laws may have prohibited some NLD leaders, including Aung San Suu Kyi, from running in the election, as well as required the NLD accept that the 1990 election results were invalid. The laws also severely constrained the use of funds to conduct a campaign.

³⁶ For more about the controversial election campaign in Burma, see CRS Report R41447, *Burma’s 2010 Election Campaign: Issues for Congress*, by Michael F. Martin.

³⁷ For more about the various provisions of the elections laws, see CRS Report R41218, *Burma’s 2010 Elections: Implications of the New Constitution and Election Laws*, by Michael F. Martin.

³⁸ Office of the Secretary of State, “Burma’s Elections,” press release, November 7, 2010.

in a landslide, picking up 129 seats (77%) in the Upper House, 259 seats (80%) in the Lower House, and 495 seats (75%) in the Regional and State Hluttaws (see 0). When coupled with the 25% of the seats in the Upper and Lower House reserved for military personnel (to be appointed by the Tatamadow's Commander in Chief), the USDP/military bloc holds a supermajority in both houses, which would allow them to amend Burma's constitution. The main opposition party, the NDF, won a total of 16 seats—eight in the Lower House, four in the Upper House, and four in Regional and State Hluttaws. Several ethnic minority parties—the All Mon Region Democracy Party, the Chin Progressive Party, the PaO National Organization, the Rakhine Nationals Progressive Party, and the Shan Nationals Democratic Party—won 10 or more seats, but were unable to win enough seats to control any of the 14 Regional or State Hluttaws.

The international response to Burma's 2010 elections was mixed. The House of Representatives passed H. Res. 1677 on November 18, 2010, denouncing "the one-sided, undemocratic, and illegitimate actions of the State Peace and Development Council (SPDC) that seek to legitimize military rule through a flawed election process." President Obama, who was traveling in India at the time, released a statement saying the "elections in Burma were neither free nor fair, and failed to meet any of the internationally accepted standards associated with legitimate elections."³⁹

Despite pressure from President Obama, India's Prime Minister Manmohan Singh made no official statement regarding Burma's elections. The ASEAN Chairman, Vietnam's Foreign Minister Pham Gia Khiem, issued a statement on November 11, 2010, welcoming the election as "a significant step forward in the implementation of the 7-point Roadmap for Democracy."⁴⁰

China also welcomed the election, referring to it as "a critical step for Myanmar in implementing the seven-step road map in the transition to an elected government."⁴¹ A senior official with the Indonesian government stated, "While we are welcoming the results of the [Burmese] elections, we are urging reconciliation."⁴²

The Release of Aung San Suu Kyi

Aung San Suu Kyi was released from house arrest on November 13, 2010. She had been under detention since her conviction in August 2009 for allowing an uninvited U.S. visitor, John Yettaw, to stay overnight in her home without notifying Burmese authorities. The court-ordered sentence of three years in prison was commuted to house arrest for up to 18 months by SPDC leader, Senior General Than Shwe. At the time of her conviction in 2009, she was already under house arrest that had been imposed "for her own safety" on May 30, 2003, after clashes between her supporters and pro-SPDC demonstrators.

Many international observers viewed her trial and conviction as a way for the SPDC to minimize her influence in the November 2010 parliamentary elections. The length of her commuted house arrest meant she was eligible for release only after the election was held.

Since her release, Aung San Suu Kyi's movements have been closely monitored by Burmese authorities, who have also placed restrictions on who she is allowed to see. Her younger son, Kim Aris, was granted permission to visit her soon after her release from house arrest. She has also been allowed to meet with several U.N. and U.S. officials, including Vijay Nambiar, chief of staff for U.N. Secretary-General Ban Ki-moon, and Deputy Assistant Secretary Yun. In early July, she traveled outside of Rangoon for the first time to Pagan (Bagan) despite veiled threats against her

³⁹ The White House, "Statement by President Obama on Burma's November 7 Elections," press release, November 7, 2010.

⁴⁰ ASEAN Secretariat, "ASEAN Chair Issues Statement on Myanmar Elections," press release, November 11, 2010.

⁴¹ "China Welcomes Myanmar's Smooth General Election," *Xinhua*, November 9, 2010.

⁴² Mustaqim Adamrah, "Indonesia 'Welcomes' Myanmar Election Results," *Jakarta Post*, November 16, 2010.

in the government-run press (see “Human Rights Under the New Government”). While she reportedly has permission to travel out of the country, Aung San Suu Kyi has so far refrained from international travel perhaps because she fears she may not be allowed reentry into Burma.

Aung San Suu Kyi has focused her energies since her release on several activities. First, she has been educating herself on the situation in Burma and the international attitudes towards the country.⁴³ Second, she has been holding frequent meetings with the NLD’s aging leadership (frequently referred to as the “Uncles”) as well as with NLD members. Third, she has helped direct the reformation of the NLD as a political force in Burma by submitting appeals for the NLD’s reinstatement as a political party (rejected by Burma’s courts) and organizing public awareness events. Fourth, Aung San Suu Kyi has reached out to the international community to express her views and those of the NLD on the situation in Burma and what she thinks is the appropriate international response. In June 2011, she testified by video at a hearing of the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific.

The SPDC’s decision to end Aung San Suu Kyi’s house arrest was greeted with guarded approval by the Obama Administration. The White House issued a statement “welcoming her long overdue release,” but then pointed out that her release “does not change the fact that she, and the political opposition she represents, has been systematically silenced, incarcerated, and deprived of any opportunity to engage in political processes that could change Burma.”⁴⁴ The statement went on to call for the release of all political prisoners in Burma (see “Political Prisoners”).

Burma in 2011

The transition to the new government began early in 2011, with the new Union Parliament meeting for the first time on January 31, 2011. Prior to the parliament’s first session, the SPDC established relatively restrictive rules and procedures for the Union Parliament. The main tasks for the Union Parliament’s first session was the selection of Burma’s President and two Vice Presidents, the selection of speakers for both houses of parliament, and the confirmation of ministerial nominations—undertakings that the parliament successfully completed before adjourning on March 30, 2011. Also on March 30, Senior General Than Shwe formally dissolved the SPDC, officially transferred power to the new government, and appointed General Min Aung Hlaing as his successor as Commander-in-Chief of the Burmese military.⁴⁵

The New Parliaments

Burma’s various parliaments—the Upper House and the Lower House of the Union Parliament, and the 14 Regional and State Hluttaws—met for the first time on January 31, 2011, in their specially constructed buildings in Nay Pyi Taw. Access to the parliament buildings was limited to members of the parliaments, their staff and other government officials. No media were allowed. The second session of the Union Parliament is scheduled to begin on August 22, 2011.⁴⁶

⁴³ During her house arrest, Aung San Suu Kyi had very limited contact with the outside world. She was allowed to listen to the radio and read newspapers, but was forbidden to use the Internet, watch television, or use the telephone. Outside contact was generally limited to her doctor and two residential maids, although she was permitted to meet twice with Kurt Campbell in 2009 and 2010, and once with Joseph Yun.

⁴⁴ White House, “Statement by the President on the release of Aung San Suu Kyi,” press release, November 12, 2010.

⁴⁵ Wai Moe, “Than Shwe Officially Dissolves Junta,” *Irrawaddy*, March 30, 2011.

⁴⁶ The official summons to the Union Parliament and its two houses were published in the *New Light of Myanmar* on August 1, 2011.

The parliamentary meetings proceeded under rules released by the SPDC on January 11, 2011, but created on October 21, 2010—16 days before the parliamentary elections.⁴⁷ The rules reportedly include strict limitations on the clothes to be worn by the members of the parliament, contact with the media, and the length and content of comments that can be made on the floor of the parliament. Under the SPDC-imposed rules, all questions must be submitted in advance and the Speaker has the authority to edit or block the submitted questions. The SPDC rules also prohibit outside discussion or distribution of parliamentary documents; violators, including the members of the parliaments, are to be sentenced to at least two years in prison, a fine of approximately \$250, or both.

The Union Parliament chose Former General, Prime Minister, and SPDC member Thein Sein as President. The two Vice Presidents selected were former General and SPDC Secretary Tin Aung Myint Oo and Dr. Sai Mauk Kham, an ethnic Shan member of the Upper House from the USDP. The Speakers for the Lower and Upper Houses are former SPDC members Thura Shwe Man and Khin Aung Myint, respectively. The Speakers for all 14 Regional and State Hluttaws are USDP members; 10 were previously generals in the Tatmadaw.

After his selection as Lower House Speaker Thura Shwe Man reportedly told chamber members to refrain from spending too much time in debate.⁴⁸ Upper House Speaker Khin Aung Myint reportedly made a similar statement to his chamber's members. In an article in the government-run newspaper, *The Mirror*, he was quoted as saying, "The Parliament representatives are to serve the interests of the people unanimously, no matter which party they are from [sic].... The precious time will be lost if they argue with

State and Regional Power: A Path for Political Change?

The Schedules One and Two of the 2008 constitution distinguishes between the types of laws that the Union Parliament and the State and Regional Parliaments have the right to enact. In addition, the constitution provides for 14 separate State and Regional Governments, each headed by a Chief Minister, who is appointed by Burma's President, subject to the approval of the State or Regional Parliament. The Chief Ministers report directly to the President.

Some observers have speculated that the separate, protected powers of the State and Regional Parliaments may provide a mechanism for the gradual transformation of Burma into a more democratic government. This is seen as being most likely in States where ethnic minorities constitute a larger portion of the population.

Other observers, however, note that the constitution contains additional provisions that can be used by the President and the Commander-in-Chief to maintain control over troublesome States or Regions. The President has the power to dismiss Chief Ministers and require the reorganization of state and regional ministries. In the case of an emergency in a State or Region, the President can assume both legislative and executive power in that State or Region. If the emergency should threaten to cause the dissolution of the Union, a loss of national sovereignty, or involve an insurgency or violence, the Commander-in-Chief may assume power over the State or Region.

On June 29, 2011, President Thein Sein reorganized the ministries in the Kachin State and the Saigaing Region. On June 30, he reorganized the ministries in the Bago Region, the Chin State, the Kayan State, and the Yangon Region. In all six cases, the reorganization also involved the appointment of new ministers. It waits to be seen if this reflects a Union Government policy of asserting tight control over the States and Regions.

⁴⁷ Article 443 of Burma's new constitution grants the SPDC the authority to promulgate laws that remain in force after the new government is established. For more information, see Htet Aung, "Burma's Disciplined Democracy," *Irrawaddy*, January 20, 2011.

⁴⁸ Myo Thant, "A Parliament without Debate?," *Mizzima*, February 2, 2011.

each other. The Parliament should not be in a debate-like situation.”⁴⁹

Early assessments of the function of Burma’s new Union Parliament have been mixed. Richard Horsey, a former International Labor Organization (ILO) officer in Burma, notes that the Upper House and Lower House met separately on 14 days and jointly for 18 days while in session, with meetings often lasting only a few minutes, “earning it the epithet, ‘the fifteen-minute parliament’ among some activists.”⁵⁰ However, Burmese commentator Kyaw Kyaw maintains that members of parliament have used their limited ability to submit questions to good use, forcing government ministers to publicly address issues “that are not normally discussed in domestic media.”⁵¹

Another key factor that may limit the power of Burma’s new Union Parliament is the new constitution. Under the constitution, the President and his cabinet have fairly broad powers, and the Union Parliament has limited oversight and review of the actions and decisions of the executive branch, but the constitution does provide the Union Parliament with the ability to appoint and impeach the President, Vice Presidents, and government ministers. The constitution also grants the Burmese military virtual autonomy from the Union Parliament, beyond possible budgetary control.⁵²

The New Union Government

Burma’s new President, Vice Presidents and Ministers are collectively referred to in Burma’s constitution as the “Union Government.” As the country’s executive branch, the Union Government assumed responsibility for the administration and operation of Burma’s domestic and foreign policies after the formal dissolution of the SPDC. The Union Government has the constitutional power to set policies, propose the national budget, and conduct foreign affairs, subject to the approval of the Union Parliament. The constitution also provides some additional powers to the President not often found in other countries, making Burma’s President potentially the most powerful political figure in the country. However, if the President attempts to overreach in exerting his power, he can be impeached by the Union Parliament, and replaced by one of the two Vice Presidents.

President Thein Sein

Thein Sein was born on April 20, 1945. He is a graduate of Burma’s elite military school, the Defence Services Academy. His military career included posting in various parts of Burma, including the Shan State, the home of several ethnic-based militias (see “The Ethnic-Based Militias”). After the downfall of the former intelligence chief General Khin Nyunt in 2004 based on allegations of corruption, Thein Sein was made the SPDC’s First Secretary and promoted to Lieutenant General. In 2007, he was appointed Prime Minister when his predecessor, Soe Win, became ill with leukemia. He oversaw the drafting of Burma’s new constitution and played an important role in the transformation of the USDA, the SPDC’s civilian organization, into the USDP, the SPDC-backed political party. He is viewed as one of the more moderate SPDC leaders, and disinclined to take unnecessary risks.

⁴⁹ As cited in Myo Thant, “A Parliament without Debate?,” *Mizzima*, February 2, 2011.

⁵⁰ Richard Horsey, *The Initial Functioning of the Myanmar Legislatures*, SSRN, May 17, 2011.

⁵¹ Kyaw Kyaw, “Burma’s Parliamentary System Explained,” *New Mandala*, April 1, 2011.

⁵² The Parliament’s ability to use the budget to control either the President or the Tatmadaw is mitigated by a constitutional provision that allows the continuation of expenditures based on the previous year’s budget if the Parliament fails to approve the current year’s proposed budget.

If President Thein Sein can effectively administer the operation of the new ministries, manage relations with the Tatmadaw, and avoid conflict and controversy with the Union Parliament, he could guide the nation's transition away from military rule. Under the constitution, he is limited to two five-year terms, providing him with up to 10 years to make a clear break with Burma's past. However, his military background and his past position as SPDC Prime Minister—as well as his presumed loyalty to Than Shwe—raises doubts about his willingness to dramatically depart from Burma's oppressive, paternalistic governance system. Thein Sein also suffers from heart problems (he reportedly has a pacemaker) and may have been reluctant to accept the Presidency.⁵³

The Vice Presidents

The Union Government's two Vice Presidents are former General and SPDC Secretary Tin Aung Myint Oo and Dr. Sai Mauk Kham, a Shan member of the Union Parliament from the USDP. Under Burma's constitution, the three nominees for President and Vice President are selected separately by the Upper House, the Lower House, and the military's members of the Union Parliament. The Lower House nominated Thein Sein, who was selected as President. The Upper House nominated Sai Mauk Kham and the military members nominated Tin Aung Myint Oo.

Tin Aung Myint Oo was born on May 29, 1950. Like Thein Sein, he is a graduate of the Defence Services Academy. He served in the Army, and rose to the rank of Lieutenant General. Prior to his appointment as Vice President, he was First Secretary for the SPDC. His nickname while in the Army was *Thiha Thura*, "Courageous as a Lion." On November 12, 2009, he unexpectedly resigned from his position with the SPDC and the Army.⁵⁴ At one time, he was chairman of the Trade Policy Council, which has the authority to grant export and import licenses and grant foreign companies permission to invest in the country. Tin Aung Myint Oo is considered a "hardliner." The media has also reported that Tin Aung Myint Oo may be trying to undermine the authority of President Thein Sein to set the stage for a possible military coup.⁵⁵ Another source claims that a power struggle has emerged between Vice President Tin Aung Myint Oo and Lower House Speaker Shwe Mann for de facto control over the military and the government.⁵⁶

Sai Mauk Kham, born in 1950, graduated from Mandalay Medical Institute and became a physician. He is from the Shan ethnic minority, and is known as a strong advocate of Shan culture. He reportedly developed close ties with Tin Aung Myint Oo, when the latter was commander of the North-East Regional Command (which includes the Shan State). Many observers maintain that Sai Mauk Kham was chosen as Vice President so that one of the three top positions was filled by an ethnic minority. He is expected to wield little power in the government.

The Ministers

President Thein Sein's cabinet consists of 30 Ministers holding 34 separate portfolios (see **Appendix D**). The three Ministers for Defense, Home Affairs, and Border Affairs were appointed by the Commander-in-Chief of the Tatmadaw (as stipulated in the constitution) and are active military officers. Among the rest of the Ministers, 4 are recently retired military officers and 15 were Ministers or Deputy Ministers in the SPDC government.

⁵³ "Profile: Burmese leader Thein Sein," *BBC*, February 4, 2011.

⁵⁴ Speculation at the time of his resignation attributed his departure to a dispute between his son and the grandson of SPDC leader Than Shwe.

⁵⁵ Larry Jagan, "Burma's Octopus Strangles Reform," *Irrawaddy*, July 7, 2011.

⁵⁶ Aung Zaw, "The Rut and Roar Begins in Burma," *Irrawaddy*, July 8, 2011.

The cabinet reflects strong continuity from the SPDC government, as well as a significant presence of current or past military officers. As one commentator observes, however, the presence of military officers in the cabinet is not surprising given that “the military has been the pre-eminent institution for more than half a century,” and a military education and career have offered better prospects than a civilian education and civil service.⁵⁷ It is unclear if the continuity of Ministers represents an effort by the SPDC to retain control over the Union Government or reflects a lack of other sufficiently skilled people to carry out the ministerial duties.

The National Defence and Security Council and the State Supreme Council

Burma’s constitution establishes a National Defence and Security Council (NDSC) with significant powers over the government, particularly in times of national or regional emergencies. The NDSC has 11 members—the President; the two Vice Presidents; the Speakers of the two chambers of the Union Parliament; the Commander-in-Chief and Deputy Commander-in-Chief of the Tatmadaw; and the Ministers of Border Affairs, Defence, Foreign Affairs, and Home Affairs. In the current government, all of the NDSC members are active or retired military officers, except for Vice President Sai Mauk Kham.

Under the constitution, the President can declare a regional or national emergency after consulting with the NDSC. In the case of a national emergency that could result in disintegration of the country or loss of sovereignty, the President’s declaration can transfer all legislative, judicial, and executive power to the Commander-in-Chief for up to one year, and the Union Parliament, Union Government, and judiciary are dissolved. The President can extend the national emergency declaration twice for up to six months each time after consultation with the NDSC. Once the emergency is over, the NDSC assumes legislative, executive and judicial power until a new Union Parliament is chosen, a new President is selected, and new judges appointed.

To some observers, the powers of the NDSC and the prominent role of the military among the NDSC members provide the SPDC and the Tatmadaw with the ability to topple a Union Parliament or Union Government that attempts to undermine or challenge the role of the military in Burma’s governance. Similarly, the constitution’s provisions for the President and the NDSC to declare regional emergencies could be used to corral Regional or State Hluttaws that stray too far from the military’s chosen path for the nation’s political or economic development.

In February 2011, the *Irrawaddy*, a leading opposition news agency operating out of Thailand, reported that an unnamed source close to the military said that Than Shwe and the SPDC were going to create a “State Supreme Council” to be the top governmental body in Burma.⁵⁸ According to the source, the State Supreme Council would consist of Senior General Than Shwe, Vice Senior General Maung Aye, Lower House Speaker Thura Shwe Mann, President Thein Sein, Vice President Tin Aung Myint Oo, retired Lieutenant General Tin Aye, and two other senior military generals. In April 2011, the *Asia Sentinel* reported on rumors circulating in Burma that the State Supreme Council was still to be formed, and that while it was supposed to have only advisory power, it would actually be the ultimate power in Burma.⁵⁹

Burma’s constitution has no provision for a State Supreme Council in either an advisory role or as the ultimate power in the country. Political observers in Burma differ on the veracity of the unconfirmed reports of the creation of the State Supreme Council. While such an entity would be

⁵⁷ Richard Horsey, *Who’s Who in the New Myanmar Government*, SSRIC, April 14, 2011.

⁵⁸ “Than Shwe to Head Extra-Constitutional ‘State Supreme Council,’” *Irrawaddy*, February 10, 2011.

⁵⁹ Larry Jagan, “The Look of Burma’s New Government,” *Asia Sentinel*, April 1, 2011.

technically unconstitutional, the combined votes of the USDP and the military in the Union Parliament would be sufficient to amend the constitution to legalize the State Supreme Council.

Changes in the Burmese Military

Burma's political changes have also had potentially important consequences for the Tatmadaw and its future. The creation of the USDP involved several senior military officers stepping down from their military posts to participate in the parliamentary elections. The formation of the Union Government also took some senior officers out of their military uniforms and moved them into civilian clothes.⁶⁰ As a result, there has been a significant change in the top positions in the military.

The new Commander-in-Chief of Defence Services (as of March 30, 2011) is General Min Aung Hlaing. Another graduate of the Defence Services Academy, he is 54 years old, younger than President Thein Sein and two Vice Presidents. Prior to his appointment as Commander-in-Chief, he was acting Joint Chief of Staff (after current Upper House Speaker Thura Shwe Mann stepped down to run in the parliamentary elections). Troops under his command have staged attacks on armed ethnic groups in various parts of Burma, including the assault on the Myanmar National Democratic Alliance Army (MNDAA) in 2009 that led to the flight of an estimated 37,000 ethnic Kokang into China.⁶¹ One of his first major actions after being promoted to Commander-in-Chief was to form a new national intelligence unit under his direct control. The national intelligence unit reportedly will be responsible for domestic political and security affairs.⁶² Min Aung Hlaing is generally regarded as a hardliner, with strong loyalty to Than Shwe.

Under Burma's constitution, the Commander-in-Chief is a powerful figure in the Burmese government. The constitution grants the Tatmadaw complete autonomy and gives the Commander-in-Chief authority over military affairs. The Commander-in-Chief appoints 25% of the members of the Union Parliament and 25% of the seats in the regional and state hluttaws. He also nominates the Ministers of Border Affairs, Home Affairs, and Defence. The Commander-in-Chief—along with the Deputy Commander-in-Chief and the three Ministers nominated by the Commander-in-Chief—are members of the National Defense and Security Council. In the case the President declares a national emergency, the Commander-in-Chief assumes all executive, legislative, and judicial power.

Besides a new Commander-in-Chief, the Tatmadaw also has new officers in almost every senior military posting. The new Deputy Commander-in-Chief is Lieutenant General Soe Win, who served with Min Aung Hlaing along Burma's border with China. He replaced Vice Senior General Maung Aye.⁶³ Virtually all of the senior positions in the military are filled with officers appointed since the November elections, including all 14 of the regional commanders.

The political status of the Tatmadaw may be changing in important ways. Whereas in the past the regional commanders also were effectively in charge of the administration of the region or state (and allegedly were able to extort substantial kickbacks from local businesses), the new

⁶⁰ Two of the overseas opposition new agencies, the *Irrawaddy* and *Mizzima*, both published political cartoons featuring officers removing their military uniforms and putting on the traditional Burmese clothes required for Members of Parliament, satirizing the "change in government."

⁶¹ Min Aung Hlaing reportedly ordered the arrest of Brigadier General Win Maung following the assault on the Myanmar National Democratic Alliance Army for his failure to detain Peng Jiasheng, the leader of the MNDAA.

⁶² "Burma Forms New Intelligence Unit," *Irrawaddy*, May 3, 2011.

⁶³ The current status of Maung Aye is unknown. There were unconfirmed reports that he was arrested in August 2010 after he refused to "retire" from the military and accept a senior position in the government.

constitution assigns administrative responsibilities to Chief Ministers for each state or region.⁶⁴ Six of the 14 Chief Ministers are ex-military commanders and three are ex-SPDC Ministers, often of higher rank than the newly appointed regional commanders. It is too early to tell if the newly appointed military officers will accept their change in status (and loss of economic power) and if the Chief Ministers will be able to exert control over their state or region. According to one report, the power struggle between the regional commanders and the Chief Ministers has already begun.⁶⁵

The new Commander-in-Chief may have given a sign in July 2011 on how he will react to power struggles between regional commanders and the new local governments. On July 1, 2011, at least six regional commanders were reassigned, with some sources claiming 12 of the 14 commanders were replaced.⁶⁶ On July 5, Brigadier General Tun Than was dismissed as Commander of Rangoon Command because of allegations of corruption.⁶⁷ Since then, two more regional commanders have been placed under investigation for allegations of corruption.⁶⁸

In addition, the SPDC potentially altered the nature of Burma's military when it issued the People Military Service Law on November 4, 2010.⁶⁹ The new law mandates that every Burmese citizen is required to undergo military training and to serve in the armed forces. All Burmese citizens—men and women—may be required to serve between 24 and 36 months in the military if called into duty by a newly created drafting committee. Exemptions are provided for members of religious orders, the disabled, and housewives with children. Previously, Burma officially had a volunteer military, and many people willingly joined the military because it provided their families with special benefits, such as better housing and greater access to scarce foods and consumer goods. The special privileges afforded to Tatmadaw families have reportedly been reduced since the parliamentary elections.

To some observers, the diminution of the powers of the regional commanders and the creation of a military draft are part of an effort to professionalize Burma's military, and reduce the Tatmadaw's political powers. Other analysts are unconvinced that there is a plan to transform the Tatmadaw, or if there is such a plan, that it will prove effective. These analysts assert that the culture of Burma's military, with its high reliance on loyalty, will prevent a major change in its traditions of privilege and entitlement, or in the military's historical disregard for the common Burmese citizen.

The Human Rights Situation

For decades, Burma's military leaders used political and economic oppression to maintain control over the country. On several occasions, the SPDC or its predecessors violently put down popular protests in order to remain in power.⁷⁰ During most of its reign in Burma, the SPDC used tight control over the political and economic activities of Burmese citizens to suppress opposition and

⁶⁴ The 14 Chief Ministers for regions and states are appointed by Burma's President, subject to the approval of the Regional or State Hluttaw.

⁶⁵ Yan Pai, "Military, Regional Govts at Odds over Business Concessions," *Irrawaddy*, May 27, 2011.

⁶⁶ Wai Moe, "Regional Commanders Reshuffled," *Irrawaddy*, July 4, 2011.

⁶⁷ "Brigadier General Tun Than, Commander of Rangoon Command, is Dismissed," *Mizzima*, July 7, 2011.

⁶⁸ "Five Military Generals Under Investigation in Naypyidaw," *Irrawaddy*, July 28, 2011.

⁶⁹ "People Military Service Law," State Peace and Development Council Law No. 27/2010, November 4, 2010.

⁷⁰ The violent suppression of protest movements include the crackdowns of the "8888 Uprising" of 1988, in which an estimated 3,000 civilians were killed, and the "Saffron Revolution" of 2007, in which an unknown number of civilians were killed. According to the SPDC, the official number of dead was 13 (including Japanese reporter Kenji Nagai). Western media and opposition groups estimate several hundred people were killed during the protests.

extract a privileged socio-economic status for the Tatmadaw. According to several Burma analysts, the SPDC and the Tatmadaw treat the country as if they are an army of occupation.

With the arrival of the new Union Government and the official departure of the SPDC, it is uncertain if there will be a significant change in the human rights situation in Burma. The early indications are mixed, with some signs of a loosening of government control and other signs of a tightening of authoritarian rule. The actions of the Tatmadaw, in particular, since the first meeting of the Union Parliament have been especially troubling, suggesting that the military intends to continue its past disregard for human rights.

Burma's history of serious human rights violations has led to calls for the creation of a U.N. Commission of Inquiry (COI). In his September 2010 report to the U.N. Secretary General, U.N. Special Rapporteur on the Situation of Human Rights in Myanmar Tomás Ojea Quintana repeatedly indicated his support for the establishment of a COI under the auspices of the U.N. General Assembly, the U.N. Security Council, or the U.N. Human Rights Council (UNHRC).⁷¹ On June 17, 2011, U.S. Ambassador to the UNHRC Eileen Chamberlain Donahoe reiterated that the United States supports the creation of a COI.⁷² In addition to the United States, 15 other nations have publicly endorsed the creation of a COI.⁷³ The COI has not been endorsed by the other ASEAN member nations, China, India, or Japan.

Human Rights Under the SPDC

The most recent reports of the U.N. Human Rights Council (UNHRC), the U.S. Department of State, and the major international human rights organizations all describe pervasive and severe human rights abuses under SPDC rule. On March 18, 2011, the UNHRC stated that it “strongly condemns the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar.”⁷⁴ In its assessment of events in Burma in 2010, *Human Rights Watch* wrote, “The ruling State Peace and Development Council (SPDC) continued to systematically deny all basic freedoms to citizens and sharply constrained political participation. The rights of freedom of expression, association, assembly, and media remained severely curtailed.”⁷⁵ *Freedom House* described the human rights situation under SPDC rule in starker language: “The military junta has long ruled by decree and controlled all executive, legislative, and judicial power; suppressed nearly all basic rights; and committed human rights abuses with impunity.”⁷⁶ The depth and breadth of human rights violations by the SPDC, the Tatmadaw, and their associates in Burma have been extensive. Human rights abuse in Burma has been both political and economic in nature. Among the more common and egregious human rights violations reportedly committed by the SPDC and its supporters are:

- Arbitrary and unlawful detention, disappearance, torture, and murder of Burmese citizens by the Tatmadaw and other security forces;

⁷¹ Tomás Ojea Quintana, *Situation of Human Rights in Myanmar*, United Nations General Assembly, A/65/368, New York, NY, September 15, 2010.

⁷² Htet Aung, “US Vows to Continue Pressing for Burma COI,” *Human Rights Education Institute of Burma*, June 17, 2011.

⁷³ Nations that have publicly endorsed the creation of a Commission of Inquiry are Australia, Belgium, Canada, the Czech Republic, Denmark, Estonia, France, Hungary, Ireland, Latvia, Lithuania, the Netherlands, New Zealand, Slovakia, and the United Kingdom.

⁷⁴ United Nations Human Rights Council, *Situation of Human Rights in Myanmar*, A/HRC/16/L. 11, March 18, 2011.

⁷⁵ Human Rights Watch, *Burma: Country Report*, January 2011.

⁷⁶ Freedom House, *Freedom in the World 2011 - Burma (Myanmar)*, January 2011.

- Systematic restriction of freedom of speech and the press;
- Limitations on freedom of association (including a de facto ban on labor unions) and assembly;
- Restrictions on the religious practices of religious groups not legally recognized;
- Denial of citizenship and other legal rights to selected ethnic minorities;
- Discrimination against certain ethnic minorities in education, employment, and cultural activities;
- Restrictions on the ability of citizens to participate in elections and the political process (including the dissolution or non-recognition of political parties);
- The falsification and fabrication of election results;
- The illegal displacement of people (particularly certain ethnic minorities) and seizure of property;
- Official condoning of violence against women, particularly by Tatmadaw soldiers (including rape in conflict areas);
- Child labor, including the recruitment of children as soldiers;
- Involuntary servitude and forced labor, especially in conflict areas;
- Trafficking in persons, especially women and girls from ethnic minorities;
- Denial of workers' rights (including the prohibition on the right to strike, organize, and bargain collectively; forced mandatory overtime; and unsafe working conditions);
- Widespread corruption and extortion by military officers and civil servants; and
- Indifference to and/or disregard of reports of human rights violations.

The legal devices by which the SPDC has systemically violated the human rights of Burma's citizens are also extensive. The SPDC-written and -approved constitution appears to guarantee many of the civil and economic liberties for the Burmese people, but usually subject to conditions, such as the "prevalence of law and order, community peace and tranquility or public order and morality." The constitution also preserves the continuity of all existing laws and directives issued by the SPDC and its predecessors, unless they are superseded by new laws passed by the Union Parliament. These include some of Burma's more notorious laws, which the SPDC used to detain and imprison opposition political leaders, union organizers, and other dissidents:

- *The Law Protecting the Peaceful and Systematic Transfer of State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbances and Oppositions*—a 1996 law prohibiting "inciting, demonstrating, delivering speeches, making oral or written statements and disseminating" in order to: undermine the stability of the State, community peace and tranquility, the prevalence of law and order, and/or undermine national reconciliation;
- *The Unlawful Associations Act*—originally a British law adopted in 1908 and amended in 1954, this law prohibits membership or participation in any association declared unlawful by the President; and
- *The Law Relating to the Formation of Organizations*—promulgated in 1998, the law requires virtually all organizations in Burma to register with the government,

and anyone supporting an unregistered organization may be imprisoned for up to five years.

In addition, the SPDC created multiple security forces with the legal authority to monitor, harass, detain, and imprison individuals engaged in undesirable activities. Under the new constitution, the Tatamadow have full autonomy and are not subject to civilian oversight, which allows the military to abuse human rights with virtual impunity. Burma's police force, which is under the administrative control of the Ministry of Home Affairs, was frequently used by the SPDC to monitor and detain political activists and human rights organizers, particularly in urban areas. Inside the Ministry of Defense, Military Security Affairs was another vehicle to repress civil and economic freedoms in Burma. Prior to its transformation into a political party, the USDA operated as a "neighborhood watch" arm for the SPDC to uncover local leaders of dissent. Security personnel in these agencies routinely screened mail, monitored telephone calls and email, and conducted illegal raids—generally with little fear of reprisal from the SPDC.

Human Rights Under the New Government

It may be too soon to determine if the Union Government will support the military's tradition of widespread human rights abuse in Burma or use this time of transition to develop a new policy of greater respect for political and economic liberties. The widespread presence of ex-military officers in the high echelons of the Union Government—including several ex-SPDC leaders in key positions—does not seem to set the stage for dramatic shifts in policies and practices with respect to human rights.

During the first few months of its existence, the Union Government has shown some signs of maintaining strict and tight control over Burma. The Network for Human Rights Documentation—Burma (ND-Burma) claims that its field workers found evidence of 167 cases of human rights violations in Burma during the first three months of 2011.⁷⁷ According to the organization, the most common human rights violations during this time period were forced labor (mostly the military's use of civilians as porters), the confiscation or destruction of property (principally undercompensated land seizures for commercial use), and the military's conscription of child soldiers.

Since the end of March, there continue to be reports of human rights violations by the Burmese government. Reporters without Borders obtained copies of a directive of the Ministry of Communications, Posts, and Telegraphs tightening the regulation of Internet cafes, "including a requirement to keep the personal data of all their clients along with a record of all the websites they visit, and make it available to the authorities."⁷⁸ They also reported that the Rangoon-based weekly, *True News*, had been shut down for alleged inaccuracies in a story on mobile phones. The opposition news agency Mizzima reported on June 8, 2011, that government troops in the Mon State were using civilians as "human shields" in order to avoid attacks by a local ethnic-based militia, the Karen National Union (KNU).⁷⁹ Other human rights abuses that have allegedly occurred since the beginning of the year include the continued arbitrary detention of political and

⁷⁷ Network for Human Rights Documentation-Burma, *Report on the Human Rights Situation in Burma: January - March 2011*, May 18, 2011.

⁷⁸ Reporters without Borders, *Surveillance of Media and Internet Stepped Up under New Civilian President*, May 17, 2011.

⁷⁹ Kun Chan, "Villagers Forced to Serve as Human Shields and Porters by Burmese Soldiers," *Mizzima*, June 8, 2011.

labor organizers, the rape of minority women by Burmese soldiers in conflict areas, and the financial harassment of non-governmental organizations (NGOs).

Signs are also emerging of a possible growing impatience within Burma's leadership with the actions of Aung San Suu Kyi and the NLD. On June 28, 2011, the Ministry of Home Affairs, which is responsible for domestic security, reportedly sent a letter to NLD Chairman Aung Shwe and Aung San Suu Kyi informing the organization that it must act in accordance with the law.⁸⁰ The letter stated that certain activities of the NLD—erecting signboards and flags, issuing statements, holding meetings, publishing periodicals and videos—were considered violations of the law. The Ministry indicated that if the NLD wishes to continue these activities it should either register as a political party or as a social organization. The NLD is unlikely to register either as a political party or a social organization, as that would require it to renounce the results of the 1990 elections and accept the legitimacy of the 2008 constitution and the new Union Government.

The following day, the government-run newspaper, *New Light of Myanmar* ran an opinion article that was highly critical of Aung San Suu Kyi and the NLD, and contained seemingly veiled threats against the Nobel Laureate and her political party.⁸¹ Following a defense of the legitimacy of the 2008 constitution, the November 2010 elections, and the Union Government, the author states, "Yet, there are certain persons who are attempting to get the nation in a terrible mess...." Later in the article, the author accuses the NLD of "making unreasonable demands" and being reliant on "external elements [that] are contrary to the people's desires and interests." Noting her pending national tour, the author writes, "We are deeply concerned that if Daw Aung San Suu Kyi makes trips to countryside regions, there may be chaos and riots, as evidenced by previous incidents." This last phrase appears to be a reference to her aborted 2003 national tour, which ended following an attempt on her life and resulted in her being placed under house arrest.⁸² A subsequent paragraph asserts that the NLD is "trying to politically test the patience of the government," and suggests the NLD "should stop doing so to avert unnecessary consequences."

Despite the letter from the Ministry and the article in *New Light of Myanmar*, Aung San Suu Kyi traveled to the city of Pagan (Bagan) during the first week of July without incident. On July 18, 2011, she attended ceremonies honoring her father, late General Aung San, for the first time in nine years. Then, on July 25, 2011, Social Welfare, Relief, and Resettlement Minister Aung Kyi, who had previously served as the SPDC's official liaison to Aung San Suu Kyi, met with her for over an hour. No details of the content of the meeting were released.

The new government has taken some actions that may indicate potential improvements in some areas. The *New Light of Myanmar* reported on June 3, 2011, that the Vice President Tin Aung Myint Oo and Senator John McCain had discussed allowing the International Committee of the Red Cross (ICRC) to resume its visits to Burmese prisoners. The SPDC halted ICRC visits in 2006. The Ministry of Information announced that as of June 10, 2011, five categories of publications—sports, entertainment, technology, health, and children's literature—would no longer be subject to pre-publication censorship, but would still be subjected to post-publication

⁸⁰ "Home Affairs Ministry Sends Letter to U Aung Shwe, Daw Aung San Suu Kyi Informing They Are to Act in Accord with Law," *New Light of Myanmar*, June 29, 2011.

⁸¹ Pyae Sone Aung, "Right to Make Choice Still in Hand," *New Light of Myanmar*, June 29, 2011.

⁸² On May 30, 2003, Aung San Suu Kyi's motorcade and her supporters were attacked by counter protesters near the town of Depayin, resulting in the killing of an unknown number of people. The NLD maintains that counter-protesters were actually SPDC security officials sent to assassinate Aung San Suu Kyi and that 70 or more people were killed. An unpublished police investigation of the incident claims only four people died during the incident, and that NLD supporters were carrying weapons with the intention of attacking the counter protesters.

censorship.⁸³ Nevertheless, all other weekly journals, monthly magazines, and books will continue to be required to submit their proposed drafts to the Burmese censorship board ahead of publication.

Regardless of the future policies of the new Burmese government, at this juncture, the human rights situation in Burma remains poor. On June 1, 2011, Freedom House released a special report, *The Worst of the Worst, 2011: The World's Most Repressive Societies*, which designated Burma among the nine most repressive countries in the world.⁸⁴ On June 15, 2011, U.S. Ambassador to the U.N. Human Rights Council Eileen Chamberlain Donahoe included Burma among a list of 13 countries that continue to abuse human rights, stating, "Burma continued to hold over 2,000 political prisoners and routinely violated the rights of its citizens, including ethnic minority populations."⁸⁵

Political Prisoners

As of March 2011, 2,073 political prisoners reportedly remained in detention in Burma, according to the Thailand-based advocacy group, Assistance Association for Political Prisoners (AAPP).⁸⁶ Burma's political prisoners include members of the NLD and other opposition parties, representatives of various ethnic groups in Burma, Buddhist monks and nuns, student and youth organizers, and other dissidents. Conditions for the political prisoners are reportedly harsh.⁸⁷

On May 16, 2011, President Thein Sein issued Order No. 28/2011 commuting all death sentences to life in prison and reducing the duration of all prison sentences by one year (exclusive of remission days).⁸⁸ The amnesty resulted in the release of 14,578 prisoners, of which 55 were considered political prisoners.⁸⁹ The SPDC has made several mass releases of prisoners in the past, also with few political prisoners included among those reprieved (see **Table 2**).

⁸³ "Burmese Censors Ease Conditions," *Irrawaddy*, June 8, 2011.

⁸⁴ Freedom House, *The Worst of the Worst, 2011: The World's Most Repressive Societies*, June 1, 2011. The other eight most repressive countries were Equatorial Guinea, Eritrea, Libya, North Korea, Somalia, Sudan, Turkmenistan, and Uzbekistan.

⁸⁵ United Nations Human Rights Council, *Council Hears Reports on Côte d'Ivoire and Syria, Holds General Debate on Human Rights Situations That Require Its Attention*, June 15, 2011.

⁸⁶ Assistance Association for Political Prisoners (Burma), "Monthly Chronology March, 2011," press release, March 2011, <http://www.aappb.org/>.

⁸⁷ According to a story in the *Los Angeles Times*, some prisoners are tortured and placed in solitary confinement for years. Others are forbidden to speak. Medical care is limited, and the provided food is "barely edible." ("Political Prisoners in Burma Face Bleak Conditions," *Los Angeles Times*, December 3, 2010)

⁸⁸ "Government Grants Amnesty for Prisoners," *New Light of Myanmar*, May 17, 2011.

⁸⁹ "Bogus Amnesty Keep Political Prisoners Behind Bars," *Burma Bulletin*, May 2011.

Approximately 20 political prisoners in Insein Prison in Rangoon reportedly began a hunger strike following the amnesty's announcement to express their disapproval of the continued detention of over 2,000 political prisoners, and to demand better conditions and treatment for political prisoners.⁹⁰ According to the AAPP, seven of the hunger strikers were placed in special "punishment cells" for demanding better conditions.⁹¹

The SPDC and the new government have generally denied that there are political prisoners in Burma and have asserted that the status of prisoners is an internal matter. *New Light of Myanmar* has not run any stories on the hunger strike in Insein Prison. However, the June 3 edition of the paper, in two separate stories covering Senator John McCain's visit, did report that Senator McCain asked about the status of political prisoners and was told by Foreign Minister Wunna Maung Lwin and Vice President Aung Myint Oo that there are no political prisoners in Burma.⁹² One of the stories included Senator McCain's statement that the according to the statistics of the International Human Rights Council, there are 2,000 political prisoners in Myanmar.

Table 2. Mass Prison Reprieves

Date	Total Prisoners	Political Prisoners
January 3, 2005	5,588	26
July 6, 2005	334	253
January 3, 2007	2,831	50
September 23, 2008	9,002	10
February 20, 2009	6,313	24
September 17, 2009	7,114	128
May 16, 2011	14,578	55

Source: *Burma Bulletin*, May 2010

Burma's Militias and Refugee Problem

The predominately ethnic Burman SPDC has long discriminated against many of the nation's over 100 ethnic minorities. In some of the more serious cases, the SPDC and the Tatmadaw have been accused of committing grievous human rights abuses against certain Burmese ethnic minorities. The reasons for the discrimination and maltreatment are complex and varied. Some ethnic minorities claim that a major cause of the discrimination is religious persecution. In other cases, the maltreatment appears to be primarily based on ethnicity.

An important source of tension between the Burmese military and some of the ethnic minorities of eastern and northern Burma is the continued presence of ethnic-based militias. Over the last 60 years, the Burmese military and these militias have fought, frequently resulting in the internal displacement of the local civilian population and/or the flight of civilians across international borders. As a consequence, hundreds of thousands of Burmese refugees are scattered across Southeast Asia, many in camps located in Bangladesh and Thailand. A flare-up of fighting between the Tatmadaw and the militias occurred in the first half of 2011, causing another round of refugees to flee the conflict areas.

The Ethnic-Based Militias

During the campaign period for the November 2010 elections, the Burmese military launched a series of attacks against ethnic-based militias in eastern and northern Burma. The Tatmadaw

⁹⁰ Ba Kaung, "Prisoners Go on Hunger Strike Following Amnesty," *Irrawaddy*, May 23, 2011.

⁹¹ Saw Yan Naing, "Seven Hunger Strikers Sent to 'Dog Cells,'" *Irrawaddy*, May 25, 2011.

⁹² *The New Light of Myanmar*, June 3, 2011, pp. 1, 8. This appears to be the first direct denial by a Burmese official of the existence of political prisoners in Burma to appear in the *New Light of Myanmar*.

assaults were reportedly in retaliation for the militias' rejection of a SPDC proposal to transform the militias into Border Guard Forces (BGF) or *pyithusit* (government-run local militias) under the authority of the Tatmadaw. The Burmese military specifically targeted the Kachin Independence Army, the Democratic Karen Buddhist Army, the Karen National Liberation Army, the Shan State Army, and the United Wa State Army. The conflicts between the Tatmadaw and the militias continued unabated during the first session of the Union Parliament and the establishment of the Union Government, indicating that either the new government supports the military campaign or lacks the power to control the military.

Since its independence from British colonial rule in 1948, Burma has struggled to maintain its national unity due to tensions between the majority Burmans and the country's over 100 ethnic minorities. The Panglong Agreement of 1947 between the Burmese colonial government (represented by Aung San, the father of Aung San Suu Kyi) and representatives of several ethnic minorities provided for "full autonomy in the internal administration for the Frontier Areas," which was understood to mean the traditional homelands for the ethnic minorities. The Kachin, in particular, maintain that the Panglong Agreement included provisions for a "separate Kachin State within a Unified Burma," with the demarcation to be determined by "the Constituent Assembly," or Burma's parliament. Soon after Burma's independence, the Panglong Agreement collapsed, and several ethnic-based militias arose, primarily in northern and eastern Burma.⁹³ The Burmese military and the various militias fought off-and-on throughout much of the new republic's early years. Following the coup in 1962, Burma's military junta adopted a more aggressive stance towards the ethnic-based militias, launching a series of campaigns that led to hundreds of thousands of refugees fleeing across Southeast Asia. Many of the refugees ended up in camps in neighboring Thailand.

In the 1990s, the Burmese military changed its tactics towards the ethnic-based militias, offering a cease-fire and relative autonomy if the militias and their associated political parties agreed to remain part of Burma and accept the legitimacy of the military junta. This new policy was generally attributed to Prime Minister and Chief of Intelligence General Khin Nyunt, the creator of Burma's "Seven Step Roadmap to Democracy." Several of the militias accepted the agreement, but some refused. For about a decade, conflict between the Tatmadaw and the militias was comparatively infrequent. The ceasefire agreements generally held, and the Burmese military and the non-ceasefire militias seemed willing to accept a military standoff.

On October 18, 2004, SPDC leader Than Shwe announced that General Khin Nyunt had resigned for health reasons. Khin Nyunt was almost immediately arrested, and subsequently tried on corruption charges and sentenced on July 21, 2005, to 44 years in jail. Many of Burma's senior intelligence officers were also arrested and Burma's intelligence bureau was disbanded.

The removal of Khin Nyunt corresponded with a change in the SPDC approach to the militias to a more hardline stance. A number of the leaders of the ethnic opposition groups were detained and given long jail sentences. For example, General Hso Ten of the ceasefire Shan State Army-North was sentenced to 106 years in prison.

Various efforts have been made to end the fighting or establish a ceasefire. Representatives of the Tatmadaw and the Kachin Independence Army (KIA) are engaged in ongoing talks. On July 28, 2011, Aung San Suu Kyi released an open letter to President Thein Sein and the ethnic-based militias calling for an immediate ceasefire and offering her assistance in ending the hostilities.⁹⁴

⁹³ A list of the various ethnic-based militias is provided in **Appendix E** of this report.

⁹⁴ Tun Tun, "Suu Kyi's 'Open Letter' Calls for Immediate Cease-fire in Ethnic Areas," *Mizzima*, July 28, 2011.

The Ethnic Nationalities Council (ENC), a coalition of representatives of ethnic groups from the Arakan, Chin, Kachin, Karen, Karenni (Kayah), Mon and Shan States, released a statement on August 1, 2011, welcoming Aung San Suu Kyi's open letter and offer of assistance.⁹⁵ The Union Government has not officially responded to the offer.

The possibility of convening a second Panglong Conference with participants from the ethnic minorities, the NLD, and the new Union Government has been raised by some of the ethnic minorities in Burma. Aung San Suu Kyi and the NLD have expressed their tentative support for the concept. However, the SPDC, the Union Government, and the Tatmadaw have rejected the proposal.

Burma's Refugees

The renewed fighting between the Tatmadaw and the militias has precipitated a new wave of refugees fleeing the conflicts in eastern and northern Burma. In the northern Kachin State, over 10,000 people have reportedly moved near or across the border with China to avoid the skirmishes between the Tatmadaw and the KIA. In southeastern Burma, more than 15,000 Karen have reportedly crossed into Thailand to escape fighting between Democratic Karen Buddhist Army and the Burmese military.

The renewed fighting and flight of refugees may be creating some tension between the new Union Government and the governments in China and Thailand. China, whose major hydroelectric projects may have contributed to the conflict in Kachin State, is reportedly applying pressure on Burma to stop the assaults on the KIA.⁹⁶ Similarly, Thailand is reportedly pressuring the Union Government to rein in the Tatmadaw to staunch the flow of refugees from southeastern Burma. Thailand has also held talks with Burma about ways of repatriating more of the Burmese refugees living in camps along their mutual border.

The U.N. High Commissioner for Refugees (UNHCR) report, *Global Trends 2010*, states that Burma is the world's fifth largest source of refugees, after (in order) Afghanistan, Iraq, Somalia, and the Democratic Republic of Congo.⁹⁷ According to the UNHCR, Burmese refugees currently number over 415,000. UNHCR also estimates that there are over 62,000 internally displaced people in Burma, plus over 797,000 "stateless persons."⁹⁸

⁹⁵ "ENC Statement on the 'Open Letter' of Daw Aung San Suu Kyi," August 1, 2011.

⁹⁶ China's hydroelectric investments in the Kachin State supposedly upset the Kachin leadership, who felt that they were not adequately consulted or compensated (for expropriated land) before work on the project began.

⁹⁷ United Nation High Commission for Refugees, *Global Trends: 2010*, June 2011.

⁹⁸ The "stateless persons" consist primarily of ethnic Rohingyas, whom the Burmese government does not recognize as Burmese citizens.

Many of Burma's refugees live in camps located along the borders with Bangladesh and Thailand (see **Figure 1**). According to the Thailand-Burma Border Consortium (TBBC), the camps in Thailand contained over 141,000 Burmese refugees as of the end of 2010—42,000 more than were registered with the UNHCR. Roughly 80% of the refugees in the Thai camps are ethnic Karen, with another 10% Karenni. Other ethnic minorities in the camps include Chin, Kachin, Mon, Rakhine, and Shan. The camps in Bangladesh are home to over 28,000 Burmese refugees, mostly Rohingyas from western Burma.

In addition to the refugees located in the camps in Bangladesh and Thailand, tens of thousands of Burmese have reportedly settled in other countries in South and Southeast Asia. Malaysia has over 15,000 registered Burmese (mostly Rohingyas) who have entered illegally (under Malaysian law) but have obtained UNHCR registrations.⁹⁹ Refugees

International estimates that over 200,000 unregistered Rohingya refugees are living in Bangladesh, in addition to the 28,000 living in camps. Representatives of Burmese refugees in India claim that over 80,000 Burmese refugees are living in India, consisting mostly of Chin, who are escaping religious discrimination and persecution for their Christian beliefs. Burmese refugees are also located in smaller numbers in Cambodia, Indonesia, and Singapore.

While ongoing efforts are made to resettle Burmese refugees to other nations, the continual outflow of Burmese people often exceeds the annual number of resettlements. Refugees not registered with the UNHCR or residing in camps often risk arrest, detention, and deportation back to Burma. The situation for Burmese refugees in Malaysia has received particular attention, with allegations that Malaysia and Thailand officials were involved in human trafficking and extortion of Rohingyas.¹⁰⁰

Figure 1. Burmese Refugee Camps



⁹⁹ Malaysia does not recognize the legal status of refugees and is not a party to the 1951 Convention relating to the Status of Refugees.

¹⁰⁰ For more details, see U.S. Congress, Senate Committee on Foreign Relations, *Trafficking and Extortion of Burmese Migrants in Malaysia and Southern Thailand*, committee print, 111th Cong., 1 sess., April 3, 2009, S. Prt. 111-18.

The Economy

The available economic statistics for Burma are widely regarded as unreliable and inaccurate (see text box). The Central Statistical Organization (CSO) in the Ministry of National Planning and Economic Development lacks the technical expertise and resources to obtain accurate economic data. In addition, Burma has an extensive “underground economy,” in which many Burmese citizens augment their standard of living through unrecorded and unreported work and commerce. Also, the SPDC has intentionally kept portions of the state-run economy secret—most notably, the real value of the proceeds from natural gas and oil—to evade international sanctions and domestic and international scrutiny.

Despite the lack of reliable data, economists who monitor Burma generally agree that it is among the poorest countries in the world and is the poorest country in Southeast Asia. The United Nations Development Programme (UNDP) ranks Burma 132nd on its human development index.¹⁰¹ Its people suffer from widespread poverty, particularly its rural population. According to the Food and Agriculture Organization (FAO), 19% of the population is undernourished and 32% of its children are malnourished. The most recent UNDP household survey revealed a reduction in the percentage of households living in poverty from 32% in FY2005 to 26% in FY2010.¹⁰² However, some Burma observers are reportedly skeptical about the UNDP survey results, pointing to the lack of reliable census data upon which to base the sample survey.¹⁰³

The general consensus on the main reason why Burma’s economic situation is so bad is gross mismanagement by the SPDC. Burma’s economic system has been described as a “kleptocracy” in which the country’s most profitable and valuable industries and businesses are owned or controlled by SPDC members, their families, or their supporters.¹⁰⁴ In 2010, the SPDC proceeded with the “privatization” of many government-owned assets that some critics claim mostly involved the transfer of property to the SPDC leaders, their families, and their most loyal supporters.¹⁰⁵ Just prior to its formal dissolution, the SPDC transferred ownership of rubber plantations, jade mines, and gold mines to junta leader Than Shwe and members of his family.¹⁰⁶

¹⁰¹ Burma was ranked just below Cameroon and just above Yemen. The only Asian nations with lower rankings are Nepal (138th) and Afghanistan (155th).

¹⁰² Burma’s fiscal year runs from April to March.

¹⁰³ Thea Forbes, “UNDP Survey Cites Significant Reduction in Poverty in Burma,” *Mizzima*, June 10, 2011.

¹⁰⁴ For example, see Mary Callahan, “Myanmar’s Perpetual Junta,” *New Left Review*, November-December 2009, pp. 27-63.

¹⁰⁵ For one news account of Burma’s “privatization” program, see Jerry Guo, “Corporate Junta,” *Newsweek*, November 15, 2010.

¹⁰⁶ Yan Pai, “Tha Shwe Acquires State Properties,” *Irrawaddy*, April 4, 2011.

Burma is considered one of the world's most corrupt countries. In its 2010 Corruption Perception Index (CPI), Transparency International ranked Burma 176th in the world—tied with Afghanistan and just above the most corrupt country in the world, Somalia.¹⁰⁷ Corruption reportedly is common at all levels of society. In particular, some regional military commanders allegedly receive payments from the legal (e.g., timber, jade, and ruby mining) and illegal (e.g., opium and methamphetamines) businesses operating in the territories under their command. According to one report, President Thein Sein's priority agricultural development program has already been sidetracked into a bribery and extortion racket by local authorities and bankers.¹⁰⁸

To a certain extent, the high level of poverty and corruption in Burma helped the SPDC maintain power. With few economic opportunities available to them, young men in rural areas often sought to enlist in the Tatmadaw, whose members and their families were provided better housing, food allowance, medical care, and other forms of support. The additional income that military officers and senior civil servants obtained by graft and extortion helped maintain loyalty to the SPDC. However, the "privatization" of government-assets and the appointment of state and regional Chief Ministers may have reduced these incentives to support Burma's military. This may partially explain the SPDC's decision to promulgate in November 2010 a new law mandating compulsory military service (see "Changes in the Burmese Military").

Burma's Inaccurate Economic Data: The Case of GDP Growth Rate

One example of the general inaccuracy of Burma's official economic statistics is its reported gross domestic product (GDP) growth rates. In its staff report for the 2007 Article IV consultation with Myanmar, the International Monetary Fund (IMF) included a text box comparing Burma's official GDP growth rates for 1995 to 2006 to other economies making the transition from central planning to a more market-oriented economy. The staff report concludes, "This comparison seems to indicate that the high growth profile shown by Myanmar's official statistics is overestimated."

Table 1 of the same report lists Burma's official GDP growth rates, as well as the IMF's estimates (see below). The IMF estimates are significantly lower than the official figures.

Table 3. GDP Growth Rates

Official versus IMF Estimate

Fiscal Year	Burma's Official Figure	IMF Estimate
2002-2003	12.0	5.5
2003-2004	13.8	0.0
2004-2005	13.6	5.0
2005-2006	13.6	4.5
2006-2007	12.7	7.0

Source: IMF, Myanmar—*Staff Report for the 2007 Article IV Consultation*, SM/07/347, November 5, 2007.

¹⁰⁷ Transparency International's CPI for 2010 is available online at http://www.transparency.org/policy_research/surveys_indices/cpi/2010.

¹⁰⁸ Khin Oo Thar, "Farmers' Loan Scheme Rife with Bribery," *Irrawaddy*, June 29, 2011.

In addition to the long-term problem of widespread poverty, the Union Government faces two major short-term economic challenges—increasing economic growth and decreasing inflation. Unofficial estimates of Burma’s economic growth—such as the ones done by the IMF—indicate that the economy is expanding, but at a rate slower than other Southeast Asian nations, and inadequate to significantly improve the economic situation of the Burmese people. Their meager standard of living has been eroded by comparatively high inflation (over 20%), and particularly by rising food prices.

Burma’s economy grew modestly in fiscal years 2009 and 2010, according to the Asian Development Bank (ADB), because of agriculture’s recovery from the effects of Cyclone Nargis¹⁰⁹ and the government’s heavy construction investment in the new capital, Nay Pyi Taw, and the nation’s roads.¹¹⁰ Another significant factor in Burma’s stronger growth performance was Southeast Asia’s recovery from the effects of the global financial crisis of 2007-2008. Greater economic growth also helped reduce inflationary pressures in the economy. The ADB estimated inflation in fiscal years 2009 and 2010 at 8.2% and 7.3%, respectively.

Burma’s economy benefitted from exceptionally high inward foreign direct investment (FDI) in FY2011. Burma’s CSO reported total inward FDI of nearly \$20 billion for FY2011, compared to \$302 million the year before. According to CSO, China was the main source of investment (\$8.2 billion), followed by Hong Kong (\$5.4 billion) and Thailand (\$2.9 billion). Most of the reported FDI went to oil, natural gas, electrical power, or mining projects; smaller amounts went to agricultural or manufacturing investments. Foreign observers caution that the CSO’s inward FDI figure probably reflects pledged—not actual—investments, and that the actual annual figure is probably significantly lower than \$20 billion. Some analysts assert that the recent rise in inward FDI has muted the effectiveness of U.S. economic sanctions. Other analysts suspect that certain investment projects in Burma have contributed to the recent conflict between the Tatmadaw and the ethnic-based militias (see “China’s Hydroelectric Projects in Burma”). In addition, the recent military conflicts in Burma reportedly have led to a stoppage of construction work on some investment projects, and may be discouraging new investments.¹¹¹

A future source of possible economic growth for Burma is the ASEAN Free Trade Agreement (AFTA), which will complete its final stage of implementation in 2015. Tariffs on most goods were eliminated in 2010 for the six original ASEAN member nations (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) and are to be eliminated for the final four

China’s Hydroelectric Projects in Burma

Among China’s major investments in Burma are a series of hydroelectric projects in Kachin State. China reportedly has plans to build up to nine dams in the region to provide electricity for western China; none of the electricity is to be transmitted into Burma. The largest of the nine dams is the Myitsone hydroelectric project, that is projected to produce 6,000 megawatts per year and scheduled for completion in 2019.

The Myitsone project is reportedly unpopular in the Kachin State. Construction has displaced an estimated 10,000 people and caused environmental damage. It has also brought a large number of Chinese construction workers into the region, creating resentment among the local population who may have expected to work on the project. In addition, the local ethnic-based militia, the Kachin Independence Organization (KIO), which controls the area where the dam is being built, is apparently dissatisfied with the compensation being offered for allowing the project to be built.

Some analysts speculate that the Chinese investments in the Kachin State are a major contributing factor in the breakdown of the ceasefire agreement between the Tatmadaw and the KIO.

¹⁰⁹ For more about Cyclone Nargis, see CRS Report RL34481, *Cyclone Nargis and Burma’s Constitutional Referendum*, by Michael F. Martin and Rhoda Margesson.

¹¹⁰ Asian Development Bank, *Asia Development Outlook 2011: Myanmar*, April 2011.

¹¹¹ Simon Roughneen, “War Trumps Investment in Myanmar,” *Asia Times*, July 25, 2011.

ASEAN member nations (Burma, Cambodia, Laos, and Vietnam) in 2015. While there is some concern that Burma is unprepared to adjust to tariff removal in 2015, its economy may benefit from increased trade and greater inward FDI.

In his inaugural address to the Union Parliament on March 30, 2011, President Thein Sein advocated his vision for the future development of Burma's economy.¹¹² After acknowledging that Burma remains a predominantly agricultural country, he said, "[W]e must turn to national industrialization to transform [the country] into a developed, rich one with a lot of employment opportunities and high per capita income." To achieve this goal, President Thein Sein pledged to "practice the market economy as the economic policy..." However, his interpretation of a market economy is one "in which the government takes control over the market to a certain degree."

President Thein Sein's economic priorities are agriculture, industrialization, infrastructure, and education. The new government is to ensure "reasonable prices for agricultural produce" and provide microfinancing to Burma's rural population. President Thein Sein hopes to promote industrialization by attracting inward FDI, in part by establishing special economic zones (SEZs). The SEZ in Dawei Township (near the border with Thailand) has received a high level of international attention, partly because of its large size (estimated investment of \$14 billion) and the involvement of China and Thailand in its construction. President Thein Sein also intends to continue to invest heavily in infrastructure. The SPDC-promulgated national budget for FY2012 includes massive increases in government expenditures on industry, energy, construction, transportation, and telecommunications.¹¹³

Critics of the President's economic proposals have questioned his priorities and his policies. Some Burmese economists (such as U Myint) would like to see a greater focus on poverty reduction and more attention to good governance, greater government accountability, and the elimination of government corruption. Others would like Burma to adjust its artificially overvalued official exchange rate, which is seen as a major barrier to inward FDI. Still other analysts suggest the new government needs to do more to protect workers' rights, citing studies by EarthRights International and others that SPDC, the Tatmadaw, and foreign investors have conspired to evade U.S. sanctions and violate the rights of Burmese workers.¹¹⁴

Burma's Relations with North Korea

Burma's relations with the Democratic People's Republic of Korea (North Korea) have become a growing source of apprehension for the United States and the global community. Much of the rising anxiety has focused on North Korea's export of military equipment, supplies, and technology to Burma, including reports of trade in technology and equipment for the construction of nuclear weapons. Possibly equally disconcerting has been evidence of North Korea supplying Burma's military with missiles and missile technology that would pose a threat to much of Southeast Asia. Allegations that the Tatmadaw have used chemical weapons in their assaults on

¹¹² A translation of his speech is available online at <http://www.encburma.net/index.php/archives/burma-government/133-new-president-thein-sein-speech-on-30-march-2011.html>.

¹¹³ A summary of the FY2012 budget was published in the *Myanmar Gazette* on February 11, 2011, and reprinted by Network Myanmar (<http://www.networkmyanmar.org/>).

¹¹⁴ In March 2011, EarthRights International published the report, *The Burma-China Pipelines: Human Rights Violations, Applicable Law, and Revenue Secrecy* recounting how the pipeline projects have led to land confiscations, forced labor, and arbitrary arrest and detention. In December 2010, the Swiss-American drilling company, Transocean, was subpoenaed for a second time by the Securities and Exchange Commission among allegations that the company had violated U.S. sanctions by conducting business with Burmese nationals on OFAC's SDN list.

the various ethnic-based militias in Burma have evoked the specter of a Burmese military that possesses chemical weapons and missiles with which to deliver them across the region. The continued bilateral trade in military equipment and technology would appear to violate U.N. Security Council Resolution 1874.¹¹⁵ The military ties between Burma and North Korea are viewed by some analysts as a mounting threat to regional security.

Relations between Burma and North Korea have a rocky history. Following Burma's independence from British colonial rule, the democratically elected government of U Nu supported the U.N. Security Council resolution declaring North Korea the aggressor in the Korean War. However, the U Nu government refrained from recognizing either North Korea or South Korea as the *de jure* government in Korea, viewing the ongoing conflict as an unresolved civil war.¹¹⁶ In practice, Burma continued to have economic and cultural exchanges with both North and South Korea.

Following the military coup that overthrew Burma's civilian government, the ruling junta led by General Ne Win continued to maintain relations with both North and South Korea, but showed a bias in support of North Korea. During this period, trade between Burma and North Korea apparently had minimal military content; most of the bilateral trade consisted of industrial goods from North Korea being exchanged for food and raw materials from Burma.

Relations between Burma and North Korea were effectively severed on October 9, 1983, when North Korean agents detonated a large bomb in Rangoon, killing 21 people in an apparent assassination attempt on South Korea's President Chun Doo Hwan. On November 4, 1983, Burma ordered the closure of North Korea's embassy in Rangoon and expelled North Korea's diplomatic corps from the country.

Official contact between the two countries was gradually reestablished starting in 1996, possibly driven by the Tatmadaw's interest in acquiring North Korean military equipment.¹¹⁷ Burma's military had been relying heavily on military supplies from China, but was interested in the North Korean equipment, which was similar in design and cheaper than from China. In addition, North Korea was willing to conduct barter trade, which was attractive to the hard currency strapped Burmese junta. Over the ensuing decade, the flow of military equipment from North Korea to Burma allegedly expanded to include ammunition, field guns, surface-to-surface and surface-to-air missiles, and short-range ballistic missiles and related technology.

Indications that Burma may be pursuing a nuclear weapons program, possibly with the assistance of North Korea, began to emerge around 2001. In February 2001, the military junta revitalized Burma's long dormant nuclear energy program and began discussions with Russia for the construction of a 10 megawatt nuclear reactor in Burma for medical and research use. The deal also included plans for nuclear training for Burmese engineers and military personnel in Russia. After the reactor deal with Russia fell apart, Burma apparently began discussions with North Korea, which had obtained nuclear reactors and technology from Pakistan and Russia. The possibility of a deal with Russia resurfaced in 2007, but soon collapsed again. By that time, an estimated 1,000-2,000 Burmese nationals had received some nuclear training in Russia.

¹¹⁵ U.N. Security Council Resolution 1874, adopted unanimously on June 12, 2009, following North Korea's underground nuclear weapons test on May 25, 2009. It imposed economic sanctions on North Korea and allows any member nation to search North Korean cargo for evidence of goods related to North Korea's nuclear weapons program. For more about this resolution, and the relationship between North Korea and Burma, see CRS Report R40684, *North Korea's Second Nuclear Test: Implications of U.N. Security Council Resolution 1874*, coordinated by Mary Beth Nikitin and Mark E. Manyin.

¹¹⁶ The U Nu government maintained a similar policy with respect to Vietnam.

¹¹⁷ The Burmese military expanded rapidly following the suppression of the national protests of 1988.

Following the second failed deal with Russia, reports of Burma holding talks with North Korea reemerged. Some of the nuclear-trained Burmese military officers left Burma and reported to foreign governments and the international media that they had been working on various aspects of a fledgling nuclear program in Burma that was being provided with technical assistance from North Korea. Since then, reports of secret shipments from North Korea and other allegations by ex-Burmese military personnel of a clandestine nuclear weapons program in Burma have appeared in the press.

In May 2010, the Democratic Voice of Burma (DVB) released the report “Nuclear Related Activities in Burma,” by Robert E. Kelley (an ex-International Atomic Energy Agency inspector) and Ali Fowle (an editor for DVB), providing evidence about Burma’s nuclear program, its cooperation with North Korea and other nations, and the potential risk of Burma developing nuclear weapons.¹¹⁸ The authors concluded that Burma currently has an undisclosed nuclear program, operating under military control, possibly with the intent to enrich uranium to construct a nuclear weapon. However, in public presentations about the report, Kelley has indicated that given the program’s current level of technology and administration, the risk that Burma will construct a nuclear weapon in the near future is very small. Other sources—such as Professor Desmond Ball and journalist Bertil Lintner—also reported extensively in 2010 about the evidence that Burma had a nuclear weapons program and was receiving assistance from North Korea.¹¹⁹

Many experts in nuclear weaponry remain skeptical of the reported evidence of Burma’s nuclear weapons program and the involvement of North Korea. Kelley wrote in an article in *Foreign Affairs* in May 2011:

Based on extensive work on this issue, I believe Burma-North Korea cooperation in the nuclear field remains a hypothesis, not an established fact. Cooperation between the two in conventional arms production has been widely reported by reliable researchers for years. There is some evidence to suggest Burmese interest in ballistic missiles, but none to suggest they have mastered the production of all the components for such weapons or that they have acquired them from North Korea.... A Burmese nuclear program in general, whether for weapons or for other activities, while still only conjecture, is a cause for concern given regular defector reporting.¹²⁰

During a television interview in July 2009, Secretary Clinton stated that the Obama Administration is concerned about the possible transfer of nuclear technology from North Korea to Burma.¹²¹ The U.S. concern apparently extends to other forms of weapons technology. On May 26, 2011, the destroyer USS *McCampbell* intercepted a Belize cargo ship allegedly in transit from North Korea to Burma under suspicion that the ship was carrying weapons technology in violation of U.N. Security Council Resolution 1874.¹²² Repeated requests from the USS *McCampbell* to board and inspect the ship were denied, and the ship eventually returned to North Korea.

¹¹⁸ Robert E. Kelley and Ali Fowle, *Nuclear Related Activities in Burma*, Democratic Voice of Burma, May 2010.

¹¹⁹ For example, see Desmond Ball, “Burma’s Nuclear Program: Towards a Weapons Capacity,” paper prepared for the 1st IFANS Conference on Global Affairs: Nuclear Challenges and Responses in the 21st Century, Seoul, Republic of Korea, October 5, 2010.

¹²⁰ Robert E. Kelley, “Burma-DPRK Cooperation in Military Affairs,” *Foreign Affairs*, May 5, 2011.

¹²¹ “Clinton Warns of Nuclear Ties Between Burma, North Korea,” *VOA News*, July 22, 2009.

¹²² “US Blocks Ship Suspected of Carrying North Korea Arms,” *VOA News*, June 13, 2011.

Implications for U.S. Policy

Political events in Burma in 2010 and 2011 have renewed discussions about the nature and effectiveness of U.S. policy towards the country. Both the U.S. sanctions regime and U.S. engagement policy have been subjected to scrutiny and criticism by Congress, officials with the Obama Administration, and Burma experts. In part, the discussion has focused on the suitability of continuing the existing sanctions given the installation of a new government in Burma. The debate has also focused on the effectiveness of the existing sanctions and engagement in fostering the desired changes in Burma. What have not been generally challenged are the stated goals and objectives of U.S. policy—the establishment of a representative, democratically elected civilian government that will respect the human rights of the people of Burma, including its ethnic minorities, and the release of all political prisoners.

The Sanctions Debate

The discussions about U.S. sanctions on Burma have examined several aspects of the policy. Some commentators have focused on the impact of the sanctions on Burma's economy, the targeted Burmese leaders, and the behavior of the SPDC and the Tatmadaw, questioning whether the sanctions have had the intended effects. Other writers have focused on the effectiveness of U.S. sanctions given an international context where only a few other nations are following the U.S. approach, and other key nations are using a "constructive engagement" approach. In addition, some people have expressed concern about the diligence and rigor with which the sanctions have been and are being enforced.

These different threads of discussions have led to differing views on the correct future path for U.S. sanctions on Burma. Some analysts support a full or partial lifting of the sanctions, based on sometimes conflicting conclusions about their effectiveness. Other people suggest that the establishment of the new Burmese government is a prime time to tighten the sanction regime. Still others advocate a "wait and see" approach, allowing the Union Parliament and the Union Government time to demonstrate their intentions, and the newly confirmed U.S. Special Representative and Policy Coordinator for Burma to formulate his recommendations for U.S. policy.

The Effectiveness of Sanctions

The objectives of U.S. sanctions on Burma are to promote the transition to a representative democracy, to protect human rights and civil liberties, and to secure the release of all political prisoners. An additional explicit objective of the U.S. sanctions is—as stated in the JADE Act—to "identify individuals responsible for the repression of peaceful political activity in Burma and hold them accountable for their actions." An implicit objective of the sanctions is to avoid unnecessary and/or excessive harm to Burma's general population, while maximizing the adverse effects on the targeted individuals. The policy discussion over the impact of the sanctions has raised questions on the degree to which U.S. policy has met these objectives.

Burmese opposition groups have debated the effectiveness of sanctions for many years. The release of Aung San Suu Kyi, the parliamentary elections, and the installation of the Union Government reinvigorated the debate, with a wide range of opinions being expressed. Not long after the Union Parliament held its first meeting, a group of five ethnic-based parties that had won seats in the election reportedly released a declaration supporting the end of all sanctions, stating that the sanctions "are causing many difficulties in the important areas of trade, investment, and

modern technologies for the development of ethnic areas.”¹²³ The Democratic Party (Myanmar) reportedly sent a letter to the foreign embassies in Burma suggesting the lifting of all sanctions, supposedly based on the notion that the removal of the sanctions would increase the chances that all political prisoners would be released.¹²⁴ The National Democratic Force (NDF) has called for the removal of all “non-targeted” sanctions (i.e., sanctions not targeted at specific individuals or organizations) because they reduce economic growth and harm ordinary Burmese citizens.¹²⁵

On February 8, 2011, the NLD released a review of sanctions on Burma, noting the growing discussion of the subject.¹²⁶ The NLD review generally dismissed claims that sanctions have been responsible for “the economic hardships of the people of Burma.” They point to an International Monetary Fund (IMF) study that “did not see sanctions as a significant factor” in Burma’s economic problems, but instead pinpointed the problems on the economic mismanagement of the SPDC.¹²⁷ The NLD also contended that, “given the average Burmese citizen does not have a bank account,” the financial sanctions have only affected “members of the military junta and their associates.” In the end, the NLD concluded that sanctions have proven to be an effective means of fostering political change in Burma, and called for a discussion with the leading sanction nations—Australia, Canada, the European Union, and the United States—to reach an agreement on “when, how, and under what circumstances” sanctions might be modified. For over a week following the release of the NLD review of sanctions, the *New Light of Myanmar* ran a series of articles criticizing the review, the NLD, Aung San Suu Kyi, and the United States, culminating in an article on February 17, 2011, referring to economic sanctions as “a tactic of colonialists to create [a] neo-colony of neo-colonialism.”¹²⁸

There has been a parallel international discussion of the effectiveness of sanctions on Burma. Soon after the elections were held, ASEAN called for the removal of all sanctions given the “significant developments” in Burma.¹²⁹ ASEAN also implied that the lifting of sanctions would encourage the evolution of political reconciliation in Burma. The International Crisis Group (ICG)¹³⁰ released a report in March 2011 backing the removal of sanctions, claiming that the sanctions have harmed the people of Burma, “undermine vital economic reforms,” polarize the political situation in Burma, and “reinforce dangerous imbalances in Myanmar’s external economic and diplomatic relations.”¹³¹ A recent op-ed published in the *Washington Post*, however, cautions that the removal of sanctions could place the United States on “the wrong side of history.”¹³² Pointing to the recent events in Middle East, the author suggests that it may be time to “fully” try sanctions by targeting the personal finances of Burma’s rulers and their families with “focus and intensity,” plus applying more pressure on Burma’s neighbors to help Burma’s democrats and not its generals. The *Economist* recently took a slightly different stance,

¹²³ Nivell Rayda, “ASEAN Calls for Lifting of Sanctions on Burma,” *Jakarta Globe*, January 17, 2011.

¹²⁴ Te Te, “Movement Builds to End All Non-targeted Sanctions,” *Mizzima*, January 20, 2011.

¹²⁵ “Opposition Backs End to Sanctions,” *AFP*, January 20, 2011.

¹²⁶ National League for Democracy, *Sanctions on Burma*, Rangoon, Burma, February 8, 2011.

¹²⁷ The NLD review does not identify the specific IMF study cited.

¹²⁸ Kyaw Myint Naing, “Economic Sanctions Only a Tactic of Colonialists to Create Neo-Colony of Neo-colonialism,” *New Light of Myanmar*, February 17, 2011.

¹²⁹ Nivell Rayda, “ASEAN Calls for Lifting of Sanctions on Burma,” *Jakarta Globe*, January 17, 2011.

¹³⁰ International Crisis Group (ICG) is an independent non-governmental organization committed to preventing and resolving deadly conflict. ICG is funded by donations from over 30 countries (including the United States), more than a dozen international foundations, and a number of corporations and individuals.

¹³¹ International Crisis Group, *Myanmar’s Post-Election Landscape*, Brussels, March 7, 2011.

¹³² Fred Hiatt, “The U.S. Could Get on the Right Side of History in Burma,” *Washington Post*, May 30, 2011.

recognizing that sanctions may not have been effective, but their removal at this time would be seen as rewarding “cosmetic” political reforms. Instead, it recommends “a calibrated approach to lifting sanctions.”¹³³

The International Context

The United States is one of several countries to have imposed limited sanctions on Burma. Australia, Canada, and the European Union (EU) have also imposed sanctions. Australia is the only Asian nation to impose sanctions on Burma, with others choosing to adopt a policy of political and economic engagement. At present, the U.S. sanctions regime is more extensive than those of other nations. Both the Burmese Freedom and Democracy Act and the JADE Act require that efforts be taken to coordinate U.S. sanctions with those of other nations. However, it is unclear what steps have been made to coordinate sanction regimes with other nations. Given the 2010 elections and the new Union Government in Burma, it seems unlikely that any other countries will be willing to adopt a U.S.-style sanctions regime, barring a significant act of repression occurring in Burma.

EU Sanctions¹³⁴

According to the EU’s webpage on Burma, “The prime goal of the EU is to see a legitimate, democratically elected civilian government established in Myanmar (Burma) - a government which pursues social and economic development and respects human rights while rebuilding relations with the international community.”¹³⁵

In 1996, the member states of the EU formally adopted a Common Position on Burma that imposed sanctions on the country.¹³⁶ The rationale cited by the EU at the time has remained relatively unchanged for nearly 15 years: the junta’s failure to respect the results of the 1990 election, a lack of progress toward democratization, widespread violations of human rights and the detention of political prisoners, and the regime’s unwillingness to enter into a “meaningful dialogue.” The Common Position of 1996 imposed an arms embargo; suspended cooperation not related to aid or development; imposed a visa ban on Burmese political and military leaders; suspended high-level official visits; expelled Burmese military personnel from embassies in the EU; and withdrew European military personnel from embassies in Burma.

Over the past decade and a half, EU sanctions against Burma have grown progressively stricter and more extensive. Changes to the Common Position on Burma have extended and updated the lists of Burmese officials subject to visa bans, imposed asset freezes and financial restrictions for Burmese officials and related enterprises, and banned imports and investment with regard to

¹³³ “A Double Bind,” *Economist*, May 26, 2011.

¹³⁴ This section written by Derek Mix, Analyst in European Affairs.

¹³⁵ European Union External Action Service, *Myanmar (Burma) country page*, http://www.eeas.eu/myanmar/index_en.htm.

¹³⁶ The EU’s Common Position on Burma has been through several iterations. The Common Position currently in force is 2006/318/CFSP (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2006E0318:20090813:EN:HTML>). It was preceded by 2004/423/CFSP and 2003/297/CFSP, which replaced the 1996 original, 96/635/CFSP. Common Positions are also regularly amended, including adjustments to the annexes of individuals and entities subject to sanctions.

Common Positions are the EU’s legal instrument for authorizing sanctions and require the unanimous agreement of all 27 member states.

economic sectors controlled by the Burmese government (timber, minerals, and precious stones).¹³⁷ EU sanctions, however, do not entail a blanket ban on trade and business in Burma.

In mid-April 2011, EU foreign ministers reviewed the measures in place against Burma in the context of recent developments and decided to renew the majority of sanctions for an additional 12 months.¹³⁸ At the same time, however, they decided to suspend the visa ban and asset freeze for 22 civilian officials in the Burmese government, including Foreign Minister Wunna Maung Lwin, and to lift the suspension of high-level official visits to Burma.

Although some observers reiterate that the bulk of EU sanctions were renewed intact, some advocates who believe strict sanctions must be maintained to pressure Burma's leaders on democratization have expressed concerns that suspending the visa ban and unfreezing the assets of top Burmese officials may lead to further easing of sanctions down the road. Critics also assert that the measures appear to open a gap between U.S. and EU sanctions policies.

The EU recognized and criticized the flaws in Burma's 2010 election, but the decision to relax its Burma sanctions for the first time since 1996 is in some part a response to that vote and the ensuing installation of a nominally civilian government (critics of the EU's move stress that the new Burmese government is civilian in name only). By signaling a more flexible approach, the EU "reiterates its willingness to encourage and respond to improvements in governance and progress, in the hope that a greater civilian character of the Government will help in developing much needed new policies."¹³⁹

More broadly, however, EU debates about Burma rest on some wider themes: engagement versus isolation, and pragmatism versus morality. These themes are a common feature of many debates about the EU's role in the world, and sanctions are often a central part of these discussions.

The adoption of EU-wide sanctions requires the unanimous agreement of all 27 member states. Although the EU has sanctions against 25 countries, there is a considerable current of skepticism among many European policymakers about the effectiveness of sanctions in achieving desired results. Some critics charge that European firms doing business in Burma violate the spirit of EU sanctions, and frequently flirt with the sectors that do explicitly fall under the sanctions. In addition, the critics note, the enforcement of EU sanctions is difficult and uneven, as it is up to each member state individually to enforce them with regard to its own citizens and businesses.¹⁴⁰ Such doubts about the merits of sanctions are amplified in the case of Burma because the commercial activities of countries such as China, India and Thailand limit the effectiveness of U.S. and EU sanctions.

In addition, sanctions skeptics argue that the measures, no matter how targeted, end up hurting the general population. As a matter of principle in international policy, therefore, many European policymakers argue that the development of extensive economic, business, and cultural ties, is a more effective way to gain influence and effect change.

While viewpoints within Europe vary from case to case, the EU tends to demonstrate a general preference for engagement in its approach to international relations. Many European

¹³⁷ For more detailed information on EU sanctions in force against Burma, see the relevant section, included linked documents, of *Restrictive Measures (Sanctions) in Force*, May 26, 2011.

¹³⁸ Since 2003, the EU's Common Position on Burma expires every 12 months. At the expiration date, the position comes up for renewal, amendment, or replacement, and is accordingly reviewed by EU foreign ministers at the Council of the European Union. Prior to 2003, the EU re-visited its position on Burma every six months.

¹³⁹ "Press Release on the Results of the 3082nd Council Meeting," *Foreign Affairs*, April 12, 2011.

¹⁴⁰ *ibid.*

policymakers are uncomfortable with the idea that the isolation of problematic regimes represents an effective policy approach. Seizing on last year's Burmese election as a small opening, the changes to the EU's sanctions measures appear to be an attempt to build some momentum for greater engagement and dialogue. The EU has resumed high-level official visits in anticipation of "access to senior levels of the Government, and to key opposition figures," and it has deemed Foreign Minister Wunna Maung Lwin, who is Burma's former ambassador to the European Commission, "an essential interlocutor."¹⁴¹

Some observers of EU sanctions debates, however, caution that naked economic interests may at times masquerade as pragmatic engagement. A number of advocates for the relaxation of EU sanctions on Burma reportedly have potentially lucrative corporate interests in the country—in timber, energy, and mining, among other areas. Some Europeans argue that EU sanctions on Burma have benefitted countries such as China, India, South Korea, and Thailand at Europe's expense, with Austria, Germany, and Italy reportedly among those most in favor of easing sanctions for economic reasons.¹⁴²

In the end, arguments about pragmatism and engagement are a part of EU debates about sanctions, but the policy outcomes of these debates hinge on a complex mix of factors that also has much to do with collective values and a community sense of right and wrong. The set of principles laid out in the 1992 Treaty on European Union to guide the EU's external action call for a values-based foreign policy with the support of democracy and human rights at its core. There are legitimate debates about the best way to fulfill this mandate, but in the end the moral component to EU decisions about sanctions continues to carry a great deal of weight.

Additionally, on these types of issues the EU has a strong preference for consultation with partners and for multilateral action to the greatest extent possible. Prior to making the April 2011 decision, the EU asserted that it "listened carefully to a broad range of stakeholders, including civil society, opposition groups, ASEAN members, and regional and international partners."¹⁴³ The EU and the United States do not always agree on every aspect of international sanctions. In the case of Burma, as with numerous other instances, U.S. and EU sanctions may not be identical, but on the whole their approaches appear to remain compatible and complementary.

The significance of the EU's April 2011 adjustments to its Burma sanctions regime should not therefore be overstated. All 27 member states continue to unanimously support extensive sanctions on Burma, albeit now with a greater measure of flexibility in the hope of encouraging more constructive engagement. The rescinded sanctions have been suspended for 12 months and can be restored if developments warrant: ultimately, the EU maintains that it "will assess the new Government by its deeds, and will review the set of restrictive measures accordingly."¹⁴⁴

Other Key Nations

Australia and Canada also have substantial sanctions on Burma, but more limited in scope when compared to those of the United States. On October 24, 2007, Australia imposed targeted sanctions on Burma's military regime and its supporters. Australia's sanctions include an arms embargo, travel restrictions on selected Burmese officials and their supporters, and restrictions on the provision of financial services to selected Burmese officials and their supporters. Canada's

¹⁴¹ *ibid.*

¹⁴² Andrew Buncombe and Joseph Allchin, "European Firms Seize on Suu Kyi Release to Hunt Profit in Burma," *The Independent*, April 25, 2011.

¹⁴³ "Press Release on the Results of the 3082nd Council Meeting," *op. cit.*

¹⁴⁴ *ibid.*

sanctions went into effect on December 13, 2007, following the passage of the Special Economic Measures (Burma) Regulations (SOR/2007-285). Canada's sanctions, which provide exemptions for certain types of humanitarian assistance, include:

- a ban on all goods exported from Canada to Burma, excepting only the export of humanitarian goods;
- a ban on all goods imported from Burma into Canada;
- a freeze on assets in Canada of any designated Burmese nationals connected with the Burmese State;
- a ban on new investment in Burma by Canadian persons and companies;
- a prohibition on the provision of Canadian financial services to and from Burma;
- a prohibition on the export of any technical data to Burma;
- a prohibition on Canadian-registered ships or aircraft from docking or landing in Burma;
- a prohibition on Burmese-registered ships or aircraft from docking or landing in Canada and passing through Canada.

Equally important in the sanctions discussion are the nations that do not impose sanctions on Burma, particularly China, India, Japan, and the other ASEAN member countries. China, which has officially adopted policy of "non-interference" in the internal affairs of other nations, has in the past rejected calls for sanctioning Burma's military regime. In 2007, China and Russia blocked a U.N. Security Council resolution (introduced by the United Kingdom and the United States) demanding an end to political repression and human rights violations on the grounds that the situation in Burma did not present a threat to international peace. India has resisted U.S. pressure to impose sanctions on Burma, apparently because of its concern about the potential security risks of a greater Chinese presence in Burma. The Indian government has chosen to adopt an approach of "constructive engagement," but faces some domestic pressure to alter this stance.¹⁴⁵

Japan's policy towards Burma has been a little more complex. Japan suspended its foreign assistance to Burma following the violent crackdown in 1998, but chose not to impose other economic sanctions. Over the last two decades, Japan has provided some humanitarian assistance to Burma, but the amount of aid has tended to fluctuate with the events and conditions in Burma. In addition to limited assistance, Japanese officials have frequently met with SPDC leaders and openly called for political and economic reforms in Burma. Japan's official statements regarding the November elections and the installment of the new Union Government have ranged from modest expressions of disappointment to guarded statements indicating the possibility for future progress.

ASEAN's position on Burma is complicated due to internal differences among its members, as well as the provisions of the ASEAN Charter. The other nine ASEAN members reflect a variety of political systems ranging from one-party states to nascent democracies. The relatively new ASEAN Charter (adopted in November 2007), calls for the members to respect the principle of non-interference in the internal affairs of other nations and adhere to the principle of democracy. With regard to Burma, the other nine ASEAN members have struck different balances between these two principles. Brunei, Cambodia, Laos, Singapore, Thailand, and Vietnam have generally

¹⁴⁵ For example, SPDC leader Than Shwe was greeted by large and vocal protests throughout his July 2010 visit to India.

tilted towards a non-interference stance. Indonesia, Malaysia, and the Philippines have more openly supported calls for democratic reforms in Burma. In January 2011, ASEAN called for the removal of sanctions on Burma in light of the “significant developments” that had taken place.¹⁴⁶

In April 2011, Burma formally requested that it be allowed to serve as the ASEAN chair in 2014. Facing strong international pressure, Burma decided to forgo being chair in 2006, citing domestic conditions.¹⁴⁷ The United States has expressed its opposition to Burma assuming the ASEAN chair until such time that the political situation in Burma improved significantly. During the 18th ASEAN Summit in May 2011 in Indonesia, the issue was discussed, but no decision was reached. The issue was discussed again during the ASEAN Ministerial Meeting and the ASEAN Regional Forum, held in July 2011. A final decision on Burma’s request is expected to be announced at the 19th ASEAN Summit in November 2011.

Enforcement of Sanctions

A separate thread of the debate over U.S. sanctions on Burma has focused on the rigor and diligence with which the Executive Branch has enforced the existing sanctions and complied with various reporting requirements. Certain provisions are unfulfilled and others appear to be only partially implemented. Some supporters of maintaining or expanding the current sanctions regime have questioned why the Administration does not enforce the sanctions to the full extent of the law. In particular, several commentators have noted the apparent lack of effort to coordinate U.S. policy on Burma with the policies of other nations, despite multiple legal requirements to do so.

The Rigor of Enforcement

As stated earlier in this report, the existing U.S. sanctions regime on Burma is an accumulation of provisions in five different laws and four separate Executive Orders (see “The U.S. Sanctions Regime”).¹⁴⁸ Some of these laws and Executive Orders overlap, with slightly different conditions or stipulations, rendering their enforcement a somewhat complex process. U.S. government agencies have also questioned the legality of some specific elements of the sanctions regime, raising concerns that they violate other laws. Even recognizing the complexity of the sanctions regime, some analysts have perceived a lack of rigor and thoroughness in enforcement. Reasons given for the lack of rigor vary from a lack of resources to a failure of administrative focus, as well as concerns about the larger geopolitical implications of a more comprehensive enforcement of the sanctions.

One example of a failure to comply with the stated provisions of the sanctions laws is the State Department’s non-enforcement of Section 6(b) of the 2003 Burmese Freedom and Democracy Act (BFDA):

The Secretary of State shall post on the Department of State’s website the names of individuals whose entry into the United States is banned under subsection (a).

Subsection (a) authorizes the President to “deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.” Since the passage of the BFDA, the State Department has never posted the required names on its website. According to State Department representatives, this provision of the BFDA is no longer in effect and violates

¹⁴⁶ Nivell Rayda, “ASEAN Calls for Lifting of Sanctions on Burma,” *Jakarta Globe*, January 17, 2011.

¹⁴⁷ Under ASEAN’s charter, the chair is to rotate in alphabetical order.

¹⁴⁸ For a more detailed description of the existing sanctions, see CRS Report R41336, *U.S. Sanctions on Burma*, by Michael F. Martin.

the privacy rights of visa applicants. Critics have questioned the legality of the State Department's interpretation.

The Department of Treasury's compilation of a list of people and entities subject to financial services sanctions is an example critics frequently cite of less than thorough enforcement. The 2008 JADE Act expands the list of Burmese officials the Secretary of State is to include on the visa and entry ban list from those mentioned in the 2003 BFDA, and requires the Secretary of the Treasury to prohibit the provision of certain financial services to persons on the visa ban list. In compiling the list of sanctioned persons, the act requires the President to consider "the data already obtained by other countries and entities that apply sanctions against Burma, such as the Australian Government and the European Union." In addition, "The Secretary of State and the Secretary of the Treasury shall devote sufficient resources to the identification of information concerning potential persons to be sanctioned to carry out the purposes described in this Act." The 2008 JADE Act also requires that updates of these lists be sent to selected congressional committees as "new information becomes available."

On January 15, 2009, President George W. Bush issued Presidential Determination No. 2009-11 limiting the list of persons sanctioned under the 2008 JADE Act to those already included in the Department of Treasury's list of Specially Designated Nationals and Blocked Persons (SDN List) or subsequently added to the SDN List by the Secretary of the Treasury. Critics have complained that the Presidential Determination effectively removed the intended "sting" of the JADE Act and has led the Department of Treasury to devote less time and effort in identifying and adding Burmese persons to the SDN List. For example, the U.S. Campaign for Burma (USCB) sent a list to Secretary Geithner of 42 individuals who have provided and/or continue to provide substantial economic and political support to the SPDC, the USDP, the Burmese military or the new Union Government, but who do not appear on the SDN List.¹⁴⁹ Of the 42 individuals on the USCB list, 28 are on one or both of the sanction lists of Australia and the EU – lists that the U.S. Treasury is supposed to monitor and coordinate with the SDN List.

Commentators have cited other examples of seemingly lax or ineffective enforcement of existing sanctions on Burma. Regardless of which issue they raise, the commentators are concerned that the lack of rigorous enforcement has significantly contributed to the apparent ineffectiveness of the sanctions to influence the behavior and policies of the SPDC and the Tatmadaw. In brief, the commentators maintain that the problem of the current U.S. sanction regime is that it is too weak to generate the desired outcome, and that improved enforcement and possibly additional sanctions are necessary.

Effective Coordination

Another element of U.S. sanctions enforcement is coordination with other nations. The underlying idea is that U.S. sanctions can only be effective if other critical nations impose similar sanctions and/or avoid engaging with Burma in ways that undermine U.S. sanctions. The 2003 BFDA and the 2008 JADE Act contain provisions requiring the coordination of U.S. policy with other nations. These provisions include statements that

- The United States is to "work with the international community, especially the People's Republic of China, India, Thailand, and ASEAN, to foster support for the legitimate democratic aspirations of the people of Burma and to coordinate efforts to impose sanctions on those directly responsible for human rights abuses in Burma;"

¹⁴⁹ Letter from U.S. Campaign for Burma to Timothy Geithner, Secretary of the Treasury, June 27, 2011.

- “The President shall consider the data already obtained by other countries and entities that apply sanctions against Burma, such as the Australian Government and the European Union;”
- “The President should take the necessary steps to seek to negotiate an international arrangement—similar to the Kimberley Process Certification Scheme for conflict diamonds¹⁵⁰—to prevent the trade in Burmese covered articles [jadeite and rubies];”
- “The Special Representative and Policy Coordinator for Burma shall ... consult broadly, including with the Governments of the People’s Republic of China, India, Thailand, and Japan, and the member states of ASEAN and the European Union to coordinate policies toward Burma;” and
- “The Secretary of State shall coordinate on a biannual basis with representatives of the European Union ... to ensure a high degree of coordination of lists of individuals banned from obtaining a visa by the European Union ... and those banned from receiving a visa from the United States.”

The perceived need to improve the international coordination effort is one of the reasons Congress created the position of Special Representative and Policy Coordinator for Burma. Some observers question if the State Department and the Treasury Department have made adequate efforts to coordinate their policies towards Burma.

The Engagement Debate

The Obama Administration’s decision to reengage in communications with Burmese officials has also been the subject of debate. Supporters of bilateral talks believe that sanctions without talks have proven to be unsuccessful, and that direct communication will allow both sides to determine a course of action that will at least partially achieve U.S. objectives in Burma. Some opponents of the bilateral talks see them as rewarding a brutal and oppressive government that has taken no action that warrants a U.S. willingness to engage in dialogue.

Officials within the Obama Administration repeatedly expressed their frustration with the conduct and content of their meetings with Burmese officials before the creation of the Union Government. More recent talks have apparently been more productive. However, accounts of bilateral discussions continue to reveal sharp differences in perspective and intent. Burmese officials generally perceive the major events of the past year – the parliamentary elections, the dissolution of the SPDC, the formation of the Union Government, and the end of Aung San Suu Kyi’s house arrest – as demonstrable progress toward “disciplined democracy” in Burma. As such, the Burmese officials request and possibly anticipate that the United States will acknowledge this progress and remove some or all of the current sanctions. As previously indicated, the Obama Administration does not see any of the recent events in Burma as sufficient to warrant a change in the current sanctions regime. When the two parties have such fundamentally different views, it is unclear how much potential for progress continued dialogue can have.

¹⁵⁰ The Kimberley Process Certification Scheme is an intergovernmental forum that was formed in order to create a mechanism or process that would prevent trade in conflict diamonds. For more information, see CRS Report RL30751, *Diamonds and Conflict: Background, Policy, and Legislation*, by Nicolas Cook.

The Role of Congress

Over the last 20 years, Congress has repeatedly taken the initiative in the formulation of U.S. policy towards Burma, usually after the SPDC and the Burmese military have violently suppressed the Burmese people. Section 138 of the Customs and Trade Act of 1990 (Section 138)(P.L. 101-382), which authorized the President to impose sanctions on Burma, was passed in response to the Burmese military's brutal suppression of the 8888 Uprising and the SPDC's failure to respect the results of Burma's 1990 parliamentary elections. The Burmese Freedom and Democracy Act of 2003 (P.L. 108-61), which imposed additional sanctions on Burma, was approved by Congress in response to the arrest and detention of Aung San Suu Kyi and many other opposition leaders. Similarly, the 2008 JADE Act (P.L. 110-286), which contains additional sanctions, was passed following the violent crackdown of the so-called "Saffron Revolution" in the autumn of 2007.

The 112th Congress may choose to take an active role in the conduct of U.S. policy towards Burma in several distinct ways. First, Congress has a role in the oversight of U.S. policy, including sanctions enforcement and engagement with Burmese officials. Second, Congress may decide to alter U.S. policy by passing new legislation after assessing the current situation to ascertain what policy changes are necessary. Third, Congress may also choose to publicize issues related to Burma by holding hearings or passing non-binding resolutions. Fourth, individual Members of Congress may serve as a separate channel of communication with Burmese officials and interest groups.

Maintenance and Enforcement of Existing Policy

U.S. sanctions laws on Burma provide for an ongoing role for the 112th Congress in the maintenance and oversight of the existing sanctions regime. Section 9(b) of the 2003 Burmese Freedom and Democracy Act (BFDA) requires that Congress pass a "renewal resolution" if it wishes to continue the general import restrictions imposed by Section 3(a)(1) of the law. Two versions of the required joint resolution have been introduced during the 112th Congress – H.J. Res. 66 and S.J. Res. 17. On July 20, 2011, the House of Representatives passed H.J. Res. 66 by voice vote; the Senate has not taken action on either resolution.

The sanction laws also require that certain agencies in the Executive Branch provide periodic reports to selected congressional committees on the enforcement and effectiveness of the existing sanctions. A list of the mandated reports is provided in **Appendix B** of this report. These reports may provide the 112th Congress with useful information to provide proper oversight of the existing sanctions on Burma and to assess the need to modify or alter U.S. policy towards Burma. In addition to these reports, the 112th Congress may request special briefings or hold hearings on specific elements of U.S. policy to evaluate the rigor of enforcement or the impact of the sanctions on the Union Government, the people of Burma, and/or the United States.

Modifying U.S. Policy

The 112th Congress also could modify the existing sanctions regime and/or stipulate conditions for the continuation of the Obama Administration's strategy of "pragmatic engagement." This could require that the 112th Congress conduct a comprehensive assessment of the current situation in Burma to determine what types of changes may advance the overall goals and objectives of U.S. policy. Such an assessment might involve one or more of the mechanisms mentioned above in reviewing the enforcement of the existing policy.

The partial removal of existing sanctions would require the passage of new legislation, unless the President invokes existing authority under the current laws to modify the sanctions. The Obama Administration has already held talks with representatives of the Union Government in which the status of current sanctions were discussed. In addition to the existing sanctions, Burmese officials also expressed interest in two other possible changes in U.S. policy. First, the Union Government would like the United States to formally change the name of the country to Myanmar. Second, the Union Government would like the United States to relax the travel restrictions on Burma's delegation to the United Nations.¹⁵¹

Alternatively, the 112th Congress may decide to impose new or stricter sanctions. Among the various additional sanctions that have been previously considered by Congress or suggested by interested parties are:

- *The imposition of a total ban on merchandise trade with Burma* – the current sanctions prohibit the importation of goods of Burmese origin, but allow the export of goods to Burma, so long as the recipient is not subject other sanction provisions.
- *The broadening of the ban on imports from Burma* – the current sanctions ban the importation of goods of Burmese origin and goods containing rubies, jade, or jadeite that was extracted or mined in Burma. The import ban could be broadened to cover all direct or indirect trade with Burma in goods, services, or technology (including third country products). Alternatively, the list of banned materials from Burma could be expanded. For example, Congress previously considered a ban on the importation of goods containing teak from Burma.
- *An arms embargo* – The United States could advocate an international embargo on the trade of military equipment and technology with Burma.
- *Prohibit all investments in Burma by U.S. persons* – The current sanctions exempts investments that were in place as of May 20, 1997. Congress could require the divestment of the previously exempted investments. Such a sanction has been discussed in the past.

Some commentators have also suggested ways by which the U.S. government could apply more pressure on other nations to adopt a policy towards Burma more similar to that of the United States. Among their suggestions are:

- *Make Section 5(c) of the JADE Act mandatory* – Section 5(c) of the JADE Act grants the Secretary of the Treasury the authority, at his discretion, to “prohibit or impose conditions on the opening or maintaining in the United States of a correspondent account or payable-through account” by a bank or financial institution if the account may be used to provide financial services to a sanctioned Burmese person or by a financial institution holding assets of a sanctioned Burmese person. Congress could pass legislation requiring that the Secretary of the Treasury close all such accounts.
- *Prohibit the awarding of U.S. government contracts to companies doing business in or with Burma, and/or sanctioned Burmese persons* – A ban of this sort would have to be made consistent with existing international trade agreements, such as those associated with the World Trade Organization.

¹⁵¹ Burma's U.N. delegation are restricted to travel within a 25 mile radius of the United Nations.

- *Remove trade preferences to nations trading with or providing financial services to Burma or sanctioned Burmese nationals* – The United States could make eligibility for special trade preferences contingent on the nation adopting specific sanctions on trade relations with Burma. This has been previously considered by Congress.

Another policy option would be to express support or opposition to the creation of a Commission of Inquiry (COI). For example, S. Con. Res. 12 contains a provision supporting “an international investigation into allegations of international crimes against civilians in Burma, including ethnic minorities.”

Before taking action to alter or adjust current U.S. policy, a number of factors may come into play. First, Burma has a comparatively new government and has yet to resolve many basic patterns in its governance, including the balance of power between the Union Parliament and the Union Government, or the proper relationship between the Union Government and the 14 regional and state governments. Second, Special Representative Mitchell may want more time to reformulate and adjust the conduct of U.S. policy towards Burma, and be given the opportunity to present to Congress his proposals on what adjustments might be needed. Third, the continuing conflicts between the Tatmadaw and the ethnic-based militias appear to be comparatively fluid and may have a significant impact on the current situation in Burma. Fourth, while Aung San Suu Kyi’s first trip outside of Rangoon passed without incident, it is unclear how she and the NLD will be treated in the coming months and whether the political situation has significantly changed since the 2010 elections and the dissolution of the SPDC.

Appendix A. Map of Burma

(including Regions, States, and Major Cities)



Note: The U.S. government continues to recognize Yangon (Rangoon) as Burma's capital. Burma's 2008 constitution designates Naw Pyi Taw (Nawpyidaw) as the nation's capital.

Appendix B. Reports Required Under U.S. Burma Sanctions Laws

The table below provides a list of reports or information to be made available to the public required by the three laws, including information on: which agency was to provide the information; to whom the information was to be provided; how often the reports were to be distributed; what deadlines were specified, and how the reports were to be provided.

Table B-1. Reports Requires under U.S. Burma Sanction Laws

Type of Report	Law	Responsible Official or Agency	Recipient	Frequency	Deadlines	Delivery
Visa ban list – “former and present leadership of SPDC or USDA”	2003 BFDA	Secretary of State	Public	Biannual	None specified	State Department webpage
List of sanctioned officials – “former and present leaders of SPDC, the Burmese military, or the USDA;” officials of the SPDC, Burmese military, or the USDA; “other Burmese persons who provide substantial economic support for the SPDC, Burmese military, or USDA;” immediate family members of the preceding people	2008 JADE Act	President	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	Updates as new information is available	1 st report due 120 days after enactment	Transmit to committees
Report on “short- and long-term programs and activities to support democracy activists in Burma”	2003 BFDA	Secretary of State	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Appropriations Committee; Senate Appropriations Committee	One time	Three (3) months after enactment	Transmit to committees
“Report on Resources” – “report on resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power”	2003 BFDA	Secretary of State	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Appropriations Committee; Senate Appropriations Committee	One time	Six (6) months after enactment	Transmit to committees
Report on Trade Sanctions	2003 BFDA	Secretary of State, in consultation with USTR and appropriate agencies	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	One time	No later than 90 days before trade sanctions are to expire	Transmit to committees

Type of Report	Law	Responsible Official or Agency	Recipient	Frequency	Deadlines	Delivery
Report on implementation of jadeite and ruby ban	2008 JADE Act	President	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	Update when there are “subsequent developments”	No later than 180 days after enactment	Transmit to committees
Report on effectiveness of jadeite and ruby ban	2008 JADE Act	GAO	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	One time	No later than 14 months after enactment	Transmit to committees
Report on military and intelligence aid to Burma – list of countries, companies, and other entities that provide military and intelligence aid to the SPDC	2008 JADE Act	Secretary of State	House Foreign Affairs Committee; Senate Foreign Relations Committee	Annually	No later than 180 days after enactment	Transmit to committees; unclassified, but parts may be classified
Report on Burma’s timber trade	2008 JADE Act	Secretary of State, in consultation with Secretary of Commerce and other agencies	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	Annually	One (1) year after enactment	Transmit to committees (received)
Report on financial assets held by members of SPDC – list of “all countries and foreign banking institutions that hold assets on behalf of senior Burmese officials”	2008 JADE Act	Secretary of Treasury, in consultation with Secretary of State	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee; posted on Treasury’s webpage no later than 30 days after submission to committees	Annually	No later than 180 days after enactment	Transmit to committees; unclassified, but part may be classified; Treasury’s webpage
Report on safety of 15 plaintiffs in Doe v. Unocal case in Thailand	2008 JADE Act	President	House Foreign Affairs Committee; Senate Foreign Relations Committee; House Ways & Means Committee; Senate Finance Committee	One time	No later than 90 days after enactment	Transmit to committees

Source: CRS Research.

Appendix C. Parliamentary Election Results by Political Party

The following table provides a breakdown of Burma's November 2010 election results by political party for each chamber of the national parliament—the Upper House and the Lower House—as well as the 14 State or Regional parliaments (as a group). Of the 37 parties that participated in the elections, 22 parties had winning candidates. Parties are listed by the number of total seats won in the elections.

Party	Number of seats won			
	Upper House	Lower House	Regional or State Parliaments	Total Seats
Union Solidarity and Development Party	129	259	495	883
National Unity Party	5	12	46	63
Shan Nationals Democratic Party	3	18	36	57
Rakhine Nationals Progressive Party	7	9	19	35
All Mon Region Democracy Party	4	3	9	16
National Democratic Force	4	8	4	16
Chin Progressive Party	4	2	6	12
PaO National Organization	1	3	6	10
Chin National Party	2	2	5	9
Phalon-Sawaw Democratic Party	3	2	4	9
Kayin People's Party	1	1	4	6
Taaung (Palaung) National Party	1	1	4	6
Wa Democratic Party	1	2	3	6
Unity and Democracy Party of Kachin State	1	1	2	4
Democratic Party (Myanmar)	0	0	3	3
Inn National Development Party	0	1	2	3
Kayan National Party	0	0	2	2
Kayin State Democracy Party	1	0	1	2
National Democratic Party for Development	0	0	2	2
88 Generation Student Youths (Union of Myanmar)	0	0	1	1
Ethnic National Development Party	0	0	1	1
Lahu National Development Party	0	0	1	1
Independent Candidates	1	1	4	6
Totals	168	325	661	1154

Source: Alternative ASEAN Network on Burma, "Burma 2010 Election Recap," BN 2010/1077, November 26, 2010.

Appendix D. Burma's Ministers and Their Portfolios

The following table lists the current Ministers of Burma's Union Government, their portfolios, and their last position prior to their appointment as Minister.

Table D-1. Burma's Ministers and Their Portfolios

Minister	Portfolio(s)	Previous Position
Major General Hla Min	Defense	Chief, Bureau of Special Operations 3
Lieutenant General Ko Ko	Home Affairs	Chief, Bureau of Special Operations 3 ^a
Major General Thein Htay	Border Affairs; Industrial Development	Deputy Minister of Defense
U Wunna Maung Lwin	Foreign Affairs	Ambassador to the European Union
U Kyaw Hsan	Information; Culture	Minister, Information
Lieutenant General U Myint Hlaing (ret.)	Agriculture and Irrigation	Chief, Air Defense
U Hla Tun	Finance and Revenue	Minister, Finance and Revenue
U Khin Maung Myint	Construction	Minister, Construction
U Tin Naing Thein	National Planning and Development; Livestock and Fisheries	Minister, Commerce
U Win Myint	Commerce	President, Chamber of Commerce
U Thein Tun	Communications, Post and Telegraphs	Deputy Minister, Communications, Post and Telegraphs
U Aung Kyi	Labor; Social Welfare, Relief, and Resettlement	Minister, Labor
U Win Tun	Forestry	Managing Director, Myanmar Timber Enterprise
Major General U Thein Htaik (ret.)	Mines	Inspector General
Lieutenant General U Ohn Myint (ret.)	Cooperatives	Chief, Bureau Special Operations I
U Nyan Tun Aung	Transport	Deputy Minister, Transport
U Tint Hsan	Hotels and Tourism; Sports	Chair, ACE Construction Company
U Kyaw Swa Khaing	Industry-1	Deputy Minister, Industry-2
U Soe Thein	Industry-2	Minister, Industry-2
U Aung Min	Rail Transportation	Minister, Rail Transportation
U Than Htay	Energy	Deputy Minister, Energy
U Zaw Min	Electric Power No. 1	Minister, Electric Power No. 1
U Khin Maung Soe	Electric Power No. 2	Chair, Yangon City Electric Supply Board

Minister	Portfolio(s)	Previous Position
Dr. Mya Aye	Education	Rector, Mandalay University
Dr. Pe Thet Khin	Health	Rector, Yangon University of Medicine
Thura U Myint Maung	Religious Affairs	Minister, Religious Affairs
Major General U Aye Myint (ret.)	Science and Technology	Deputy Minister, Defense
U Khin Yi	Immigration and Population	SPDC Police Chief
U Thien Nyunt	President's Office ^b	Minister, Border Area
Major General U Soe Maung (ret.)		Judge Advocate General

Source: Richard Horsey, "Who's Who in the New Myanmar Government," SSRIC, April 14, 2011.

Notes:

- a. Left position and was replaced by Major General Hla Min.
- b. Two people share the portfolio.

Appendix E. Burma's Ethnic-Based Militias

The following is a list of Burma's active ethnic-based militias, according to their status.¹⁵²

Non-Ceasefire Groups

- Arakan Liberation Party
- China National Front
- Hongsawatoi Restoration Party
- Karen National Union (KNU)
- Karenni National Progressive Party
- Lahu Democratic Front
- National Socialist Council Nagaland (Khaplang faction)
- National Unity Party of Arakan
- Palaung State Liberation Front
- Pao National Liberation Organization
- Rohingya Solidarity Organization
- Shan State Army-South¹⁵³
- Wa National Organization

Ceasefire Groups That Rejected Border Guard Force Status

- Democratic Karen Buddhist Army (5th Brigade)
- Kachin Independence Organization (KIO)
- Kayan New Land Party
- KNU/KNLA Peace Council
- National Democratic Alliance Army (Eastern Shan State)
- New Mon State Party
- Shan State Army-North (Shan State Progress Party)¹⁵¹
- United Wa State Army

¹⁵² Based on information in Transnational Institute, "Ethnic Politics in Burma: The Time for Solutions," Burma Policy Briefing Nr. 5, February 2011.

¹⁵³ Since the publication of the Transnational Institute briefing, the two militias have reported formed a united front, under the name, "Shan State Army."

Ceasefire Groups That Accepted Border Guard Force Status (with new designation)

- Democratic Karen Buddhist Army – BGF 1011-22¹⁵⁴
- Karen Peace Force (ex-KNU 16th battalion) – BGF 1023
- Karenni Nationalities Peoples Liberation Front – BGF 1004-5
- Myanmar National Democratic Alliance Army-Kokang – BGF 1006
- New Democratic Army-Kachin – BGF 1001-3

Ceasefire Groups That Were Transformed into Local Militia (*pyithusit*)

- Kachin Defense Army (KIO splinter group)
- Lasang Awng Wa Peace Group (KIO splinter group)
- Mon Peace Defense Group (NMSP splinter group)
- Mong Tai Army Homein (Homong) Region
- Pao National Organization
- Palaung State Liberation Party
- Rawang Militia (ex-Rebellion Resistance Force)
- Shan State Army-North (3rd and 7th Brigades)

Author Information

Michael F. Martin
Specialist in Asian Affairs

Derek E. Mix
Analyst in European Affairs

Acknowledgments

The authors would like to acknowledge the assistance of Todd B. Tatelman and Hannah Fischer in the preparation of this report.

¹⁵⁴ Since the publication of the Transnational Institute briefing, the DKBA has reversed its decision to accept BGF status.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.